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NOTICE

The unheralded Gazettes of India Extraordinary were published upto the 19th July 1962 :—

Issue No.	No. and Date	Issued by	Subject
249	S.O. 2200, dated 12th July, 1962.	Ministry of Finance	Amendment to the notification of the Government of India in the Ministry of Finance (Revenue Division), No. 6-Customs, dated the 18th January, 1952.
250	S.O. 2201 dated 12th July, 1962.	Election Commission, India.	Appointment of Assistant Returning Officers for the Parliamentary Constituency in the State of Madras.
251	S.O. 2202, dated 13th July, 1962.	Ministry of External Affairs.	Fixing the 13th day of July, 1962, as the date on which the Daman (Abolition of Proprietorship of Villages Regulation, 1962.
252	S.O. 2203, dated 16th July, 1962.	Ministry of Commerce & Industry.	Appointment of a body of persons for the purpose of making a full and complete investigation into the circumstances of the case in the economic conditions prevailing in the Sholapur Spinning and Weaving Company, Limited, Sholapur.
253	S.O. 2204, dated 17th July, 1962.	Ditto.	Amendment in No. S.O. 1889, dated the 15th June, 1962.
254	S.O. 2205, dated 18th July, 1962.	Election Commission, India.	Calling upon the House of the People in the State of Andhra Pradesh to elect a person to fill the vacancy by reason of Shri M. Ananthasayanam Ayyangar, having entered upon his Office as Governor of Bihar.
	S.O. 2206, dated 18th July, 1962.	Ditto.	Fixation of dates for making nominations; for the scrutiny of nominations, for the withdrawal of candidatures; for polling and completion of the election.
	S.O. 2207, dated 18th July, 1962.	Ditto.	Fixation of polling hours from 8 A.M. to 5 P.M.

Issue No.	No. and Date	Issued by	Subject
	S.O. 2208, dated 18th July, 1962	Election Commission, India.	Appointment of Returning Officers and Assistant Returning Officer.
255	S O. 2282, dated 18th July, 1962	Ministry of Information & Broadcasting.	Approval of film specified therein.
	S O. 2283, dated 18th July, 1962	Ditto	Approval of films specified therein.
256	S O. 2284, dated 18th July, 1962.	Ministry of Finance	Fixation of the rate of interest to be charged by the Corporation on all the loans and advances granted by it @ 7½ % per annum.

Copies of the Gazettes Extraordinary mentioned above, will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these Gazettes.

PART II—Section 3—Sub-section (ii)

Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administration of Union Territories).

ELECTION COMMISSION, INDIA

New Delhi, the 2nd July 1962

S.O. 2287.—In pursuance of sub-rule (5) of rule 89 of the Conduct of Elections Rules, 1961, the Election Commission hereby notifies the names of the persons shown in column 1 of the Schedule below who having been contesting candidates for election to the House of the People from the constituency specified in the corresponding entries in column 2 thereof, at the election held in 1962 have, in accordance with the decision given today on the Election Commission under sub-rule (4) of the said rule, failed to lodge any accounts of their election expenses and will accordingly become subject to the disqualification under clause (c) of section 7 of the Representation of the People Act, 1951 on the expiration of two months from the date of the said decision.

SCHEDULE

Names of contesting candidates	Name of constituency
1	2
Shri Shubnath Chatar, Village Sargaria, P O Majhaon, District Singhbhum	50—Singhbhum
Shri Lakho Bodra, Village Paseya, P O Purnia, District Singhbhum	50—Singhbhum

[No. BR-P/50/62(36)]

New Delhi, the 13th July 1962

S O. 2288.—In pursuance of sub-rule (5) of rule 89 of the Conduct of Elections Rules, 1961, the Election Commission hereby notifies the name of the person shown in column 1 of the Schedule below who having been a contesting candidate for election to the House of the People from the constituency specified in column 2 thereof, at the election held in 1962 has, in accordance with the decision given today by the Election Commission under sub-rule (4) of the

said rule, failed to lodge his accounts of election expenses in the manner required by law and will accordingly become subject to the disqualification under clause (c) of section 7 of the Representation of the People Act, 1951, on the expiration of two months from the date of the said decision

SCHEDULE.

Name and address of contesting candidate	Serial No and name of constituency
1	2
Shri Kirankumar D, Nagarkurnool, Mahboobnagar District	30-Mahboobnagar

[No AP-HP/30/62(6)/55957]

New Delhi, the 16th July 1962

S.O. 2289.—In pursuance of sub-rule (5) of rule 89 of the Conduct of Elections Rules, 1961, the Election Commission hereby notifies the name of the person shown in column 1 of the Schedule below who having been a contesting candidate for election to the House of the People from the constituency specified in column 2 thereof, at the election held in 1962 has, in accordance with the decision given today by the Election Commission under sub-rule (4) of the said rule, failed to lodge his accounts of election expenses in the manner required by law and will accordingly become subject to the disqualification under clause (c) of section 7 of the Representation of the People Act, 1951, on the expiration of two months from the date of the said decision

SCHEDULE

Name and address of contesting candidate	Serial No and name of constituency
1	2
Shri Fakir Tudu, Village Tura, P O Silda, District Midnapore, West Bengal.	Jhargram.

[No WB-P/28/62(6)/56280]

S.O. 2290.—In pursuance of sub-rule (5) of rule 89 of the Conduct of Elections Rules 1961, the Election Commission hereby notifies the name of the person shown in column 1 of the Schedule below who having been a contesting candidate for election to the House of the People from the constituency specified in the corresponding entry in column 2 thereof at the election held in 1962 has, in accordance with the decision given today by the Election Commission under sub-rule (4) of the said rule, failed to lodge any account of his election expenses and will accordingly become subject to the disqualification under clause (c) of section 7 of the Representation of the People Act, 1951, on the expiration of two months from the date of the said decision

SCHEDULE

Name and address of contesting candidate	Serial No and name of Constituency
1	2
Narahari Goud (L), Advocate, Gowliguda, Hyderabad	34-Medak

[No AP-HP/34/62/(8)/56275]

S.O. 2291.—In pursuance of sub-rule (5) of rule 89 of the Conduct of Elections Rules, 1961, the Election Commission hereby notifies the name of the person shown in column 1 of the Schedule below who having been a contesting candidate for election to the House of the People from the constituency specified in column 2 thereof, at the election held in 1962 has, in accordance with the decision given today by the Election Commission under sub-rule (4) of the said rule, failed to lodge his accounts of election expenses within the time and in the manner required by law and will accordingly become subject to the disqualification under clause (c) of section 7 of the Representation of the People Act, 1951, on the expiration of two months from the date of the said decision.

SCHEDULE

Name and address of contesting candidate	Serial No. and name of constituency
1	2
Shri K. B. Menon, P.S.P. Office, Puthiyara, Calicut-4.	3-Badagara.
	[No. KL-HP/3/62(2)/56339.]

S.O. 2292.—In pursuance of sub-rule (5) of rule 89 of the Conduct of Elections Rules, 1961, the Election Commission hereby notifies the name of the person shown in column 1 of the Schedule below who having been a contesting candidate for election to the House of the People from the constituency specified in the corresponding entry in column 2 thereof, at the election held in 1962 have, in accordance with the decision given today by the Election Commission under sub-rule (4) of the said rule, failed to lodge any account of his election expenses and will accordingly become subject to the disqualification under clause (c) of section 7 of the Representation of the People Act, 1951, on the expiration of two months from the date of the said decision.

SCHEDULE

Name and address of contesting candidate	Serial No. and name of constituency
1	2
Shri M. M. Abdul Khader, Advocate. Chittoor Road, Ernakulam.	10-Ernakulam.
	[No. KL-HP/10/62(3)/53431.]

S.O. 2293.—In pursuance of sub-rule (5) of rule 89 of the Conduct of Elections Rules, 1961, the Election Commission hereby notifies the name of the person shown in column 1 of the Schedule below who having been a contesting candidate for election to the House of the People from the constituency specified in column 2 thereof, at the election held in 1962 has, in accordance with the decision given today by the Election Commission under sub-rule (4) of the said rule, failed to lodge his accounts of election expenses within the time required by law and will accordingly become subject to the disqualification under clause (c) of section 7 of the Representation of the People Act, 1951, on the expiration of two months from the date of the said decision.

SCHEDULE

Name and address of contesting candidate	Serial No. and name of constituency
1	2
Shri Jatindranath Mitra, C/o Srish Chandra Bhadra, Mohantapara, P.O. Jalpaiguri, District Jalpaiguri, West Bengal.	2-Jalpaiguri.
	[No. WB-P/2/62(7)/56334.]

S.O. 2294.—In pursuance of sub-rule (5) of rule 89 of the Conduct of Elections Rules, 1961, the Election Commission hereby notifies the name of the person shown in column 1 of the Schedule below who having been a contesting candidate for election to the House of the People from the constituency specified in the corresponding entry in column 2 thereto, at the election held in 1962 has, in accordance with the decision given today by the Election Commission under sub-rule (4) of the said rule, failed to lodge any account of his election expenses and will accordingly become subject to the disqualification under clause (c) of section 7 of the Representation of the People Act, 1951, on the expiration of two months from the date of the said decision.

SCHEDULE

Name and address of contesting candidate	Serial No. and name of constituency
1	2
Shri Ram Milan, Village Charka, P.O. Beohari, District Shahdol, Madhya Pradesh.	9—Shahdol.
	[No. MP-P/9/62(13)/56032.]

New Delhi, the 18th July 1962

S.O. 2295.—In pursuance of sub-rule (5) of rule 89 of the Conduct of Elections Rules, 1961, the Election Commission hereby notifies the name of the person shown in column 1 of the Schedule below who having been a contesting candidate for election to the House of the People from the constituency specified in column 2 thereof, at the election held in 1962 has, in accordance with the decision given today by the Election Commission under sub-rule (4) of the said rule, failed to lodge his account of election expenses within the time and in the manner required by law and will accordingly become subject to the disqualification under clause (c) of section 7 of the Representation of the People Act, 1951, on the expiration of two months from the date of the said decision.

SCHEDULE

Name and address of contesting candidate	Serial No. and name of constituency
1	2
Shri Pabbathi Venkataramaiah, Nallamada P.O., Kadiri Taluk.	26-Hindpur.
	[No. AP-LA/26/62(9)/56101.]

New Delhi, the 21st July 1962

S.O. 2296.—In pursuance of sub-rule (5) of rule 89 of the Conduct of Elections Rules, 1961, the Election Commission hereby notifies the name of the person shown in column 1 of the Schedule below who having been a contesting candidate for election to the House of the People from the constituency specified in column 2 thereof, at the election held in 1962 has, in accordance with the decision given today by the Election Commission under sub-rule (4) of the said rule, failed to lodge his account of election expenses within the time and in the

manner required by law and will accordingly become subject to the disqualification under clause (c) of section 7 of the Representation of the People Act, 1951, on the expiration of two months from the date of the said decision.

SCHEDULE

Name and address of contesting candidate	Serial No. and name of constituency
1	2
Shri Tipkurle Bandopant Dhondiram, Ward No. 7, House No. 2447, Post Nipani (Belgaum).	1-Bidar.

[No. MY-HP/1/62(7)/56419.]

By Order,
K. K. SETHI, Under Secy.

New Delhi, the 12th July 1962

S.O. 2297.—In pursuance of sub-rule (5) of rule 89 of the Conduct of Elections Rules, 1961, the Election Commission hereby notifies the name of the person shown in column 1 of the Schedule below who having been a contesting candidate for election to the House of the People from the constituency specified in the corresponding entry in column 2 thereof, at the election held in 1962 has, in accordance with the decision given today by the Election Commission under sub-rule (4) of the said rule, failed to lodge any account of his election expenses and will accordingly become subject to the disqualification under clause (c) of section 7 of the Representation of the People Act, 1951, on the expiration of two months from the date of the said decision.

SCHEDULE

Name and address of contesting candidate	Serial No. and name of constituency
1	2
Shri Bihari, V. Kanecra H/o Mawaliya, P.O. Behta Gokul, District Hardoi.	17—Hardoi.

[No. UP-HP/17/62(45)/55871.]

New Delhi, the 13th July 1962

S.O. 2298.—In pursuance of sub-rule (5) of rule 89 of the Conduct of Elections Rules, 1961, the Election Commission hereby notifies the names of the persons shown in column 1 of the Schedule below who having been contesting candidates for election to the House of the People from the constituency specified in column 2 thereof, at the election held in 1962 have, in accordance with the decision given today by the Election Commission under sub-rule (4) of the said rule failed to lodge their accounts of election expenses in the manner required by law and will accordingly become subject to the disqualification under clause (c) of section 7 of the Representation of the People Act, 1951, on the expiration of two months from the date of the said decision.

SCHEDULE

Name and address of contesting candidate	Serial No. and name of constituency
1	2
1. Shri Manik Lal, Village Jalkholi, Dhandri, Patti Mandalsyun, Garhwal.	2—Garhwal.
2. Shri A. Wahid, Village Sharfuddin Nagar, P.O. Kotkadar, Pargana Badhapur, District Bijnor.	2—Garhwal.

[No. UP-HP/2/62(44).]

S.O. 2299.—In pursuance of sub-rule (5) of rule 89 of the Conduct of Elections Rules, 1961, the Election Commission hereby notifies the name of the person shown in column 1 of the Schedule below who having been a contesting candidate for election to the House of the People from the constituency specified in column 2 thereof, at the election held in 1962, has, in accordance with the decision given today by the Election Commission under sub-rule (4) of the said rule, failed to lodge his account of election expenses in the manner required by law and will accordingly become subject to the disqualification under clause (c) of section 7 of the Representation of the People Act, 1951, on the expiration of two months from the date of the said decision.

SCHEDULE

Name and address of contesting candidate	Serial No. and name of constituency
1	2
Shri Vasant Rao, C/o Sahu Laxmi Narain, Delhi Gate, Aligarh.	Aligarh

[No. UP-HP/77/62(46)/55582.]

New Delhi, the 16th July 1962

S.O. 2300.—In pursuance of sub-rule (5) of rule 89 of the Conduct of Elections Rules, 1961, the Election Commission hereby notifies the name of the person shown in column 1 of the Schedule below who having been a contesting candidate for election to the House of the People from the constituency specified in column 2 thereof, at the election held in 1962 has, in accordance with the decision given today by the Election Commission under sub-rule (4) of the said rule, failed to lodge his accounts of election expenses in the manner required by law and will accordingly become subject to the disqualification under clause (c) of section 7 of the Representation of the People Act, 1951, on the expiration of two months from the date of the said decision.

SCHEDULE

Name of contesting candidate	Name of constituency
1	2
Shri Bhagwat Guru, Akhara Bazar, Kulu. District Kangra.	Kangra.

[No. PB-HP/1/62(11)/56065.]

S.O. 2301.—In pursuance of sub-rule (5) of rule 89 of the Conduct of Elections Rules, 1961, the Election Commission hereby notifies the name of the person shown in column 1 of the Schedule below who having been a contesting candidate for election to the House of the People from the constituency specified in column 2 thereof, at the election held in 1962 has, in accordance with the decision given today by the Election Commission under sub-rule (4) of the said rule, failed to lodge his accounts of election expenses in the manner required by law and will accordingly become subject to the disqualification under clause (c) of section 7 of the Representation of the People Act, 1951, on the expiration of two months from the date of the said decision.

SCHEDULE

Name and address of contesting candidate	Serial No. and name of constituency
1	
Shri Moti, Village Hinauta, P.O. Chandauli, District Varanasi.	Chandauli.

[No. UP-HP/53/62(48)/56012.]

S.O. 2302.—In pursuance of sub-rule (5) of rule 89 of the Conduct of Elections Rules, 1961, the Election Commission hereby notifies the name of the person shown in column 1 of the Schedule below who having been a contesting candidate for election to the House of the People from the constituency specified in the corresponding entry in column 2 thereof, at the election held in 1962 has, in accordance with the decision given today by the Election Commission under sub-rule (4) of the said rule, failed to lodge any account of his election expenses and will accordingly become subject to the disqualification under clause (c) of section 7 of the Representation of the People Act, 1951, on the expiration of two months from the date of the said decision.

SCHEDULE

Name and address of contesting candidate	Serial No. and name of constituency
1	2
Shri Harihar, Village Bhurkhura, P.O. Iliya, District Varanasi.	Chandauli.

[No. UP-HP/53/62(47)/56005.]

S.O. 2303.—In pursuance of sub-rule (5) of rule 89 of the Conduct of Elections Rules, 1961, the Election Commission hereby notifies the names of the persons shown in column 1 of the Schedule below who having been contesting candidates for election to the House of the People from the constituency specified in column 2 thereof, at the election held in 1962 have, in accordance with the decision given today by the Election Commission under sub-rule (4) of the said rule, failed to lodge the accounts of election expenses in the manner required by law and will accordingly become subject to the disqualification under clause (c) of section 7 of the Representation of the People Act, 1951, on the expiration of two months from the date of the said decision,

SCHEDULE

Names and addresses of contesting candidates	Serial No. and name of constituency
1	2
1. Shri Khare Laxmi Shankar, Mohalla Madhopur, Gorakhpur.	39-Gorakhpur.
2. Shri Sadiq Ali, Mohalla Paharpur, City Gorakhpur.	39-Gorakhpur.

[No. UP-HP/39/62/56430.]

New Delhi, the 17th July 1962

S.O. 2304.—In pursuance of section 106 of the Representation of the People Act, 1951, the Election Commission hereby publishes the Order pronounced on the 30th June, 1962, by the Election Tribunal, Farrukhababad.

IN THE ELECTION TRIBUNAL AT FARRUKHABAD

PRESENT:

Sri Rajendra Prasad Saksena—Member.
(District Judge Farrukhababad).

ELECTION PETITION NO. 5 OF 1962

Relating to '70 Mainpuri' Parliamentary Constituency of the General Election 1962.

Sri Ram Nath, son of Sri Bhurey Singh, aged about 32 years, resident of Habilia, hamlet of Urthan, Tahsil Karhal, District Mainpuri.—Petitioner.

Versus

1. Sri Bad Shah Gupta, 98, Chhapatti Uari, Mainpuri,
2. Sri Amiri Lal, Etawah Road, Sirsa Ganj, post office Sirsa Ganj, District Mainpuri,
3. Sri Jagdish Singh, village Jagadish Nagar, post office Tindauli, District Mainpuri.
4. Sri Janki Prashad, village and post office Bhogaon, District Mainpuri.
5. Sri Brijpal Singh Nin, C/o Sri Bijendra Pal Singh Yadav, Mohalla Chapatti, Mainpuri,
6. Sri Lala Ram Yadav, Nagla Khokhar, post office Bewar, District Mainpuri.
7. Sri Vishnu Dayal, Mohalla Vishnuapuri, post office Jasrana, Mainpuri—Respondents

JUDGMENT

The petitioner, Sri Ram Nath, was one of the candidates for the election of '70 Mainpuri' Parliamentary Constituency for the General Election of 1962. The seven respondents were the other candidates for the same. The polling for the said Parliamentary Constituency was held on 21st, 23rd and 25th of February, 1962 in respect of '349 Ghiror', '347 Karhal' on the 21st of February, 1962, in respect of '345 Bhogaon' and '346 Kishani', on the 23rd February, 1962 and in respect of '348 Mainpuri' on the 25th of February, 1962. The five above-mentioned Assembly Constituencies comprise the '70 Mainpuri' Parliamentary Constituency for which the petitioner was one of the candidates.

The counting of the votes for the '70 Mainpuri' Parliamentary Constituency in respect of '349 Ghirore' was started on the 26th of February, 1962 and completed on the 27th of February, 1962, while in the case of '348 Mainpuri' it was commenced on the 27th of February, 1962 and completed on the 28th February, 1962. The counting of '345 Bhogaon', '346 Kishani', and '347 Karhal' was started on 29th February, 1962 and completed on the same day i.e. 29th February, 1962.

According to the counting figures as given out by the Returning Officer:—

the petitioner got 51524 votes,
 the Respondent No. 1 got 52328 votes,
 Respondent No. 2 got 5240 votes,
 Respondent No. 3 got 36331 votes,
 Respondent No. 4 got 22708 votes,
 Respondent No. 5 got 32048 votes,
 Respondent No. 6 got 7213 votes,
 and Respondent No. 7 got 31186 votes.

After the completion of the counting of the votes of '70 Mainpuri' Parliamentary Constituency comprising of '345 Bhogaon', '346 Kishani', '347 Karhal', '348 Mainpuri' and '349 Ghirore', the petitioner applied in writing to the Returning Officer for the recount of all the ballot papers of the '70 Mainpuri' Parliamentary Constituency, but the Returning Officer rejected the same on the next day, i.e. on the 1st March, 1962.

The Returning Officer on the same day declared the election to the effect that the Respondent No. 1 was the elected candidate.

The petitioner filed the instant petition on the 17th March 1962 before the Election Commission of India. He complained that he was allowed only four counting agents, but there were 16 tables on which the counting was being done. Consequently, his counting agents could not check the gross violation of rules and law by the authorities concerned in the scrutiny and counting of the ballot papers.

The petition next mentioned that there were electricity break-downs during the night when the counting of the afore-mentioned votes took place and that prior to the failure of electricity there was a wind-storm. It was complained that no precautions were taken for this disturbance.

In his statement (at order No. 9 of the proceedings before this Tribunal) learned counsel for the petitioner clarified, that the complaint of the petitioner in respect

of the counting agents was merely a statement of fact, and not a ground for the setting aside of the election.

The petition went on to complain, that a large number of valid votes were improperly rejected. A list was attached as Annexure 'A', but it was explained, that it was not complete since it did not include all the improperly rejected valid ballot papers of the petitioner.

It was further complained, that a large number of ballot papers of Respondent No. 1, Sri Bad Shah Gupta, which should have been rejected, were wrongly counted as valid votes.

It was next complained, that a large number of ballot papers of the petitioner have been counted as valid votes of other candidates, that is, the other respondents in this case.

It was contended in the petition, that due to illegalities and irregularities Respondent No. 1, Sri Bad Shah Gupta, has been declared wrongly as the returned candidate, while the fact is that the petitioner has secured a majority of the valid votes and should have been declared as the successful candidate for '70 Mainpuri' Parliamentary Constituency.

In Paragraphs 44 and 45 of the election petition, the petitioner mentioned that a large number of persons who were not at all present on the date of the polling have been wrongly shown to have voted. It was allegedly done through impersonation and a large number of votes were cast for dead persons through impersonation in favour of Respondent No. 1, Sri Bad Shah Gupta. The grounds were summarized in the petition as follows:—

- A. Because there has been an improper reception of votes in favour of Respondent No. 1 and other respondents as also the reception of such votes by Respondent No. 1 were invalid and were liable to be rejected.
- B. Because there has been improper rejection of the valid votes of the petitioner.
- C. Because there has been reception of votes in favour of Respondent No. 1 which were void.
- D. Because there has been non-compliance of the provisions of the Representation of Peoples' Act and the conduct of election rules and orders made under the said Act.
- E. Because a large number of valid ballot papers of the petitioner have been wrongly rejected whereas a large number of such ballot papers of Respondent No. 1, which should have been rejected, have been illegally counted as valid votes as also a large number of votes of the petitioner have been counted as votes for the respondents. There has also been a large number of cases in which the votes of the petitioner have not been counted at all or they are missing and have been removed by the authorities concerned and other interested persons.
- F. Because a large number of votes have been given through impersonation on behalf of the persons who were not present and did not vote.

The prayer in the petition was as follows:—

- (a) It is, therefore, respectfully prayed that the Tribunal may be pleased to declare the election of Respondent No. 1 as void.
- (b) It is further prayed that the petitioner be declared as duly elected member of the Parliamentary from '70 Mainpuri' Parliamentary Constituency.
- (c) Cost of petition be awarded to the petitioner.

Under section 86 of the Representation of the Peoples Act, 1951, I was appointed the sole Tribunal, and under section 88 of the said Act, Farrukhabad was appointed as the place of the trial. The order is dated March 31, 1962. April 19, 1962 was fixed as the date for the first appearance of the parties before me.

Notices were duly served on all the parties for the 19th April, 1962. But, when the case was called on that date, only the petitioner and his counsel appeared. The proceedings were ordered to be *ex parte* against all the respondents. The Assistant Returning Officer for the "70 Mainpuri" Parliamentary Constituency for General Election 1962 was also summoned by me for the 19th April, 1962, and appeared before this Tribunal.

The petitioner was on that date asked to specify the details of the allegations contained in paragraphs 44 and 45 relating to votes cast by impersonation. He was unable to supply the details and wanted a week's time.

In view of the statements of learned counsel for the petitioner the only dispute which then remained was on the following points:—

- (1) That some valid votes cast for the petitioner were treated as invalid.
- (2) That some invalid votes for Sri Bad Shah Gupta had been treated as valid.
- (3) That some votes cast for the petitioner have been counted as votes cast for other respondents.
- (4) That votes cast for other respondents have been counted as those cast for Sri Bad Shah Gupta.
- (5) That all the ballot papers are not accounted for.

Under the circumstances, I directed the Returning Officer to allow the petitioner and his counsel to inspect the ballot papers from 23rd April 1962, onwards, on each working day throughout the working hours and, in case of necessity, even beyond. The petitioner and his counsel picked out all such ballot papers as came according to the petitioner, under any of the above four categories (numbers 1 to 4 noted above) and kept them in separate sealed covers bearing the Assistant Returning Officer's as also of the petitioner's seal and signatures as also the signatures of the contesting respondent.

The Returning Officer also showed the ballot paper accounts to the petitioner and allowed him all reasonable opportunity to examine the accounts in detail, under my orders issued on the 19th April, 1962.

The afore-mentioned counting, examination of ballot papers etc. took place in the Additional District Magistrate's retiring room at Mainpuri from April 23, 1962 onwards. The examination was to conclude by the evening of the 28th April, 1962 and the Assistant Returning Officer and the petitioner were ordered to appear before the Tribunal on the 6th May, 1962.

Learned counsel for the petitioner had felt doubtful about the procedure ordered by me and indicated above. Learned counsel's contention was that the counting should be done in the immediate presence of the Tribunal. The Courts are, however, not to act on the principle that every procedure is to be taken as prohibited unless it is expressly provided for by the Code, but on the converse principle, that every procedure is to be understood as permissible till it is shown to be prohibited by law. As a matter of general principle, prohibition cannot be presumed. Having carefully and anxiously considered the matter, I was of the view that the procedure adopted by me and ordered above was the most expeditious and proper in the circumstances of the case.

The Assistant Returning Officer as ordered by me brought before the Tribunal on May 5, 1962, all such ballot papers under his own seal and the seal of the petitioner, as were picked out by the petitioner and his counsel. He also brought the log book and the accounts of the relevant ballot papers. The Assistant Returning Officer also brought such ballot paper-accounts (Form 16) as the petitioner desired to be placed before the Tribunal on May 5, 1962.

At 2-30 p.m. on the 19th April, 1962 after the petitioner and his counsel had left, Sri Bad Shah Gupta, Respondent No. 1, appeared with Sri M. P. Misra Advocate. All the orders passed by me that day were communicated to the Respondent and his counsel.

Respondent No. 1 was allowed time upto May 5, 1962 for filing written statement. May 5, 1962 was also fixed for the framing of issues. The ex parte orders against him were set aside on payment of nominal costs.

Respondent No. 1 Sri Bad Shah Gupta, was also allowed by the Assistant Returning Officer to inspect the ballot papers and to pick out and keep separately such ballot papers as, according to him, were invalid but had been counted as valid in favour of Sri Ram Nath, the petitioner. The bag containing such ballot papers was sealed by the Assistant Returning Officer with his own seal. The bag duly sealed was brought by the Assistant Returning Officer before this Tribunal on May 5, 1962. Since parties agreed that it was the most convenient procedure, the bags of disputed ballot papers were arranged polling station-wise and sealed accordingly.

The time for inspection of the ballot papers was extended by me upto May, 4, 1962, at the request of the petitioner.

When the case was taken up in this Tribunal on May 5, 1962, the Assistant Returning Officer of '70 Manipuri' Parliamentary Constituency as well as the contesting parties with their counsel were present. Learned counsel for the petitioner stated that the petitioner does not rely on any corrupt practices and there was, therefore, no question of any affidavit being filed.

Respondent No. 1, Shri Bad Shah Gupta filed his written statement challenging the allegations about the incorrect counting and the impersonation and other improper practices mentioned in the petition.

On the pleadings of the parties the following issues were framed:—

Issues.

(1) Was there any improper reception of votes in favour of Respondent No. 1? If so, how many votes were improperly received in favour of respondent No. 1?

(2) Was there improper reception of votes for Respondent No. 1, which were invalid and were liable to be rejected? If so, how many such votes were there?

(3) Was there any improper rejection of valid votes of the petitioner? If so, how many valid votes of the petitioner were rejected?

(4) Was there any improper reception of votes in favour of Respondent No. 1 which were void? If so, how many such votes were there?

(5) Were there any ballot papers of the petitioner which have been wrongly rejected? If so, how many such valid ballot papers were there?

(6) Were there any ballot papers of Respondent No. 1 which should have been rejected but which have been treated as valid? If so, what was their number?

(7) Were there any votes of the petitioner which have not been counted at all? If so, how many such votes were there?

(8) Were there any ballot papers of the petitioner which are missing?

(9) How many valid votes were polled for the petitioner?

(10) Have any valid votes of the Respondent No. 1 been counted for the petitioner or for the other respondents? If so, their number?

(11) Have any valid votes of Respondent No. 1 been rejected as invalid? If so, their number?

(12) Whether any dead persons or persons other than those shown in the voters' list have voted? If so, how many? Is it a 'corrupt practice' and, therefore, the petitioner should not be allowed to take it in view of the proviso to section 83, of the Representation of Peoples' Act?

(13) To what relief, if any, is the petitioner entitled?

The issues were read over and explained to the parties and their counsel who did not press for any further or other issues and withdrew all other pleas not contained in the above issues.

On May 5, 1962, the petitioner's learned counsel gave a statement that the petitioner would give oral evidence only on issue No. 12, and on no other issues. The contesting respondent's learned counsel stated that he would give oral evidence only in rebuttal and not at all initially on any issue. Parties' pleaders further stated that none of them would file any documentary evidence in the case. The petition was fixed for hearing from June 4, 1962, to July 3, 1962, with a break for recess. At the request of the contesting respondent, it was ordered that on June 4, 1962, only the latter portion of issue No. 12, that is, 'whether the petitioner should not be allowed to take the plea' would be decided before the petitioner would be allowed to lead oral evidence.

On the 21st May, 1962, the contesting respondent filed a security for Rs. 2,000, and he filed the recrimination petition. June 4, 1962, was fixed for orders on the application.

On June 4, 1962, the petitioner applied that the recrimination petition should be summarily dismissed as time barred. Thereupon, the following further issue was framed:—

Issue No. 14:

Is the recriminatory petition time barred? If so, has it to be summarily dismissed?

The petitioner's counsel stated that he would not lead any evidence on issue No. 12. (Order No. 39), which naturally, meant that there was to be no oral evidence at all in the case, since on the very date of issues the petitioner had already stated that he did not propose to lead any oral evidence on any issue other than No. 12.

On June 5, 1962, arguments were heard on issue No. 14, and a finding was given in favour of Respondent No. 1, which is reproduced below:—

Finding on Issue 14:

It is true that under section 97 the elected candidate shall not be entitled to give evidence unless he has within 14 days from the date of the commencement of the trial given notice to the Tribunal of his intention to file recriminatory application and has also given security. But, in the first place, the elected candidate, that is respondent No. 1, in the instant case, does not propose to give any evidence. Secondly, in view of the explanation to Section 9(4), the trial of the petition shall be deemed to commence on the date fixed for the respondent to appear before the Tribunal and answer the claim made in the petition. That date, in the instant case, would have been the 5th of May, 1962. Consequently, the recriminatory application was within time.

Still further, we find in the authority reported in *Lakshmi Shanker Yadav versus Kunwar Sripal Singh and others*, Volume XXII, of the Election Law Reports at page 47, that the Hon'ble High Court of Allahabad laid down that the plea by an elected candidate that some of his votes were wrongly rejected and the petitioner's votes wrongly accepted could be taken even without filing the recrimination petition. Consequently, the filing of the recrimination petition by the respondent was at best a superfluity and I hold that the recrimination petition is not time barred and there is, therefore, no question of its being summarily dismissed.

The *modus operandi* at the hearing before the Tribunal which started on June 4, 1962, was as follows:—

The Election Inspector had been deputed by the Election Officer of Mainpuri to officiate for him. He brought the sealed box from the double-lock of the Farukhabad Treasury, where it had been kept. It contained sealed envelopes containing all the ballot papers picked out by the parties and which were alleged by one or the other party to have been improperly counted in one way or another. The ballot papers were arranged in the envelopes polling-station wise as this was found the most convenient thing by the parties.

Each envelope was opened after showing to the parties and their counsel that the seals were intact. Each ballot paper was then scrutinized and arguments were heard in respect of such of them, as required any arguments, or on which any party wanted the Tribunal to hear him. The orders in respect of each of the ballot papers were passed there and then and the recounting result in respect of any evidence. Secondly, in view of the explanation to Section 90(4), the trial of the contents of each envelop was noted down forthwith in the record of the proceedings of the Tribunal and signed by the parties or their counsel before the next envelope was opened. This scrutiny continued on June 5, 1962, and was concluded on the 6th June, 1962.

On the 6th June, 1962, June 7, 1962, and onwards were the dates fixed for hearing arguments. But, on June 6, 1962, about ten minutes after the Tribunal resumed its sitting for the day, an application was moved on behalf of the petitioner for permission to bring some more ballot papers after again scrutinizing the whole lot at Mainpuri. Since the respondent No. 1, wanted time to meet the request, it was allowed and the application was put up when the Tribunal resumed its sitting on the 7th June, 1962.

On the 7th June, 1962, the contesting respondent filed an application supported by an affidavit, challenging the right of the petitioner to pick out more ballot papers when he had specifically confined his case to those which were brought under sealed covers at the beginning of the trial. I agreed with the respondent's contention. Even so in the interests of justice I allowed the petitioner further opportunity subject to payment of exemplary costs, which I assessed at Rs. 500, only. The petitioner took time upto the 11th June, 1962, for paying the costs. The Returning Officer of Mainpuri was ordered to allow fresh inspection of the ballot papers from 15th to 26th June, 1962, in case the costs were duly paid. But, on the 11th June, 1962, the petitioner and his counsel gave a statement that they did not propose to pay the costs and requested for a date to be fixed for hearing arguments in the case. Consequently, the 26th of June, 1962, was fixed for arguments. The Assistant Returning Officer was directed to bring the Ballot papers

accounts on that date since the parties did not want the ballot papers to be brought again before the Tribunal at the time of the arguments. Arguments were heard on the 26th June, 1962, and the following findings are being given thereafter:—

FINDINGS

Issues 1 to 7,10 and 11.—These issues may, in view of the *modus operandi* indicated above by me, be taken up together. The result of the scrutiny which is recorded in the order-sheet duly signed by the contesting parties, their counsel and the representative of the Returning Officer is as follows:—

Polling Stations Nos. 1 to 8 of 70 X 345 Bhogaon Constituency.

3 votes to be deducted from Respondent No. 1.

11 votes to be added for the Petitioner.

Polling Stations Nos. 9 to 38, Bhogaon Constituency:

Ten votes to be added for the petitioner.

53 votes to be deducted from the Respondent No. 1.

Polling Stations 3 to 51, Bhogaon:

8 votes to be added to the Petitioner.

10 votes have to be subtracted from the votes of respondent No. 1.

Polling Stations 52 to 72, Bhogaon.

Four votes should be subtracted from respondent No. 1.

Three votes to be added to the petitioner.

Polling Stations 72 to 96 and Polling Station 69, Bhogaon.

One vote to be subtracted from the votes of respondent No. 1.

48 votes to be subtracted from the petitioner's votes.

Polling Stations 1 to 31, of 70 X 346? Kishini Constituency.

Three votes to be added to respondent No. 1.

Eight votes to be added to the petitioner's votes.

Polling Stations 34 to 62 and 90 to 94; Kishini Constituency.

Five votes to be added to the petitioner.

Twelve votes to be subtracted from Respondent No. 1.

Polling Stations 63 to 89 Kishini Constituency.

Three votes to be added to the petitioner.

Thirty-seven votes to be subtracted from Respondent No. 1.

KARHAL CONSTITUENCY 70 X 347:

Polling Stations Nos. 1 to 25, 51 to 75 and 86, 87, and 88:

Six votes to be added to the petitioner.

Ten votes to be added to Respondent No. 1.

Polling Stations Nos. 26 to 50 and 76 to 84:

Twenty-five votes to be added to the petitioner.

Eighty-nine votes to be subtracted from Respondent No. 1.

70 X 348, MAINPURI CONSTITUENCY.

Polling Station Nos. 1 to 21 and 75 to 98:

Thirty votes to be added to the petitioner.

Twenty-one votes to be deducted from the Respondent No. 1.

Polling Stations Nos. 22 to 74 and 99 to 101:

Nineteen votes to be added to the petitioner.

Thirty votes to be deducted from the Respondent No. 1.

70 X 349. CHIRORE CONSTITUENCY

Polling Stations Nos 1 to 50

Twenty-nine votes to be added to the petitioner
Fourteen votes to be added to the Respondent No 1.

Polling Stations Nos 51 to 103

Eighteen votes to be added to the petitioner.
Four votes to be added to the Respondent No 1

Polling Station No. 47

Two votes to be added to the petitioner.
Two votes to be deducted from Respondent No 1

70 X 349 CHIRAU BALLOT PAPER ACCOUNT

Relating to Polling Station No 47:

The valid votes cast for the contesting respondent to be reduced to 77 from 83
The valid votes cast for the petitioner to be mentioned as 13 instead of 11

The net result is that 131 votes have to be added to the petitioner's 51524 votes as declared by the Returning Officer and 237 votes have to be subtracted from Respondent No 1's 52328 votes as declared by the Returning Officer. The difference between the votes polled for the petitioner and those polled for the contesting respondent which was 804 now remains only 436. But, this has no effect on the result of the election and I hold accordingly

Issue No. 8—There is no evidence of any missing ballot papers and the issue is, therefore, decided in the negative

Issue No. 9—The number of valid votes polled for the petitioner, as indicated by me in my findings on previous issues is 51524 plus 131.

Issue No. 12—The petitioner did not produce any evidence on this issue and the issue is, therefore, decided in the negative. It has not been proved that any dead person or persons other than those shown in the voters lists have voted.

Issue No. 13—In view of my finding on the previous issues, the election petition has to be dismissed

The order passed in the election petition is under section 98(a) of the Representation of the Peoples' Act. Under the proviso to Section 120(1) of the Act, Respondent No 1, who is the returned candidate, should get an order for costs in his favour. But, main section 120(1) provides that costs including pleader's fee, shall be in the discretion of the Tribunal, and that portion of the section is still in force. After giving the matter my most anxious and careful consideration I propose, in the exercise of my discretion, to make the costs easy. Three of the reasons which have weighed with me in arriving at this decision may, therefore, be set forth—

First—The conduct of the petitioner at the trial before me was straightforward

Secondly—The petitioner's request for a recount had been rejected by the Returning Officer. I am assured on behalf of the petitioner, and I am inclined to agree with him that had the recount prayed for been allowed by the Returning Officer, the petition would not have been filed at all

And Lastly—Though the virtual recount at the trial did not result in completely bridging the gulf between the valid votes for the petitioner, and those for the contesting Respondent, yet it did result in a considerable narrowing down thereof. Without apportioning the blame on any one, I am still unable to close my eyes to the glaring fact which emerges from the figures (given above in my findings on issues Nos 1 to 7 etc) that the error was almost invariably to the petitioner's disadvantage. It is impossible to believe, that it was merely by accident that the error in counting was always adverse to the petitioner.

Under the circumstances, the costs should, in my opinion, be made easy in the exercise of this Tribunal's discretion under section 120(1), inspite of the proviso added thereto.

ORDER

The Election Petition is dismissed.

The parties shall bear their own costs.

The petitioner shall be allowed to withdraw the security deposit made by him.

Respondent No. 1 shall also be allowed to withdraw the security deposit made by him in connection with the recrimination application.

Sd./ R. P. SAKSENA,
Member, Election Tribunal,
Farrukhabad.

June 30, 1962.

Judgment signed, dated and pronounced in open Court.

Sd./ R. P. SAKSENA,
Member, Election Tribunal.
Farrukhabad.

30-6-1962.

[No. 82/5/62.]

New Delhi, the 19th July 1962

S.O. 2305.—In pursuance of sub-rule (5) of rule 89 of the Conduct of Elections Rules, 1961, the Election Commission hereby notifies the name of the person shown in column 1 of the Schedule below who having been a contesting candidate for election to the House of the People from the constituency specified in the corresponding entry in column 2 thereof, at the election held in 1962 has, in accordance with the decision given today by the Election Commission under sub-rule (4) of the said rule, failed to lodge any account of his election expenses and will accordingly become subject to the disqualification under clause (c) of section 7 of the Representation of the People Act, 1951, on the expiration of two months from the date of the said decision.

SCHEDULE

Name of contesting candidate candidate	Name of constituency constituency
1	2
Shri Hari Shankar Rai, Village Dajna, Post Office Dheena, District Varanasi.	Phulpur.

[No. UP-HP/56/62(52)/56439.]

S.O. 2306.—In pursuance of sub-rule (5) of rule 89 of the Conduct of Elections Rules, 1961, the Election Commission hereby notifies the name of the person shown in column 1 of the Schedule below who having been a contesting candidate for election to the House of the People from the constituency specified in column 2 thereof, at the election held in 1962 has, in accordance with the decision given today by the Election Commission under sub-rule (4) of the said rule, failed to lodge the accounts of election expenses in the manner required by law and will accordingly become subject to the disqualification under clause

(c) of section 7 of the Representation of the People Act, 1951, on the expiration of two months from the date of the said decision.

SCHEDULE

Name and address of contesting candidate	Serial No. and name of constituency
1	2
Shri Ram Narain Urf Chirau, Naya Motor Stand, Jubbulpore.	56-Phulpur.

[No. UP-HP/56/62(51)/56444.]

By Order,
C. B. LAL, Under Secy.

New Delhi, the 18th July 1962

S.O. 2307.—It is hereby notified for general information that the disqualification under clause (c) of section 7 of the Representation of the People Act, 1951, incurred by the person whose name and address are given below, has been removed by the Election Commission in exercise of the powers conferred on it by the said clause and section of the said Act:—

SCHEDULE

Name and address of the disqualified candidate	Serial No. and name of constituency	Commission's notification No. and date under which disqualified
1	2	3
Shri Vyas Bachhraj Shamlal, Badkas Chowk, Mahal, Nagpur-2.	32-Nagpur.	MT-HP/32/62(7), Dated the 4th June, 1962.

[No. MT-HP/32/62(7-R)/56022.]

New Delhi, the 21st July 1962

S.O. 2308.—Whereas the election of Shri Rishang as a member of the House of the People from the Outer Manipur constituency of that House, has been called in question by an election petition presented under Part VI of the Representation of the People Act, 1951 (43 of 1951) by Shri Sibo Larbo of Punanamel, P.O. Mao, Manipur;

And whereas the Election Commission has caused a copy of the petition to be published in an official gazette and has served a copy thereof by post on each of the respondents under sub-section (1) of section 86 of the Representation of the People Act, 1951 (43 of 1951);

Now, therefore, in exercise of the powers conferred by sections 86 and 88 of the said Act, the Election Commission hereby appoints Shri M. H. Khan, District and Sessions Judge, Manipur, as the member of the Election Tribunal for the trial of the said petition and Imphal as the place where the trial of the petition shall be held.

[No. 82/341/62.]

By order,
V. RAGHAVAN, Under Secy.

New Delhi, the 20th July 1962

S.O. 2309.—In exercise of the powers conferred by sub-section (1) of section 13A of the Representation of the People Act, 1950 (43 of 1950), the Election Commission, in consultation with the Government of Mysore, hereby nominates Shri S. V. Papa Reddy, as the Chief Electoral Officer for the State of Mysore, with effect from the 11th July, 1962, and until further orders.

[No. 154/9/62.]

By order,
K. S. RAJAGOPALAN, Secy.

MINISTRY OF HOME AFFAIRS

New Delhi, the 17th July 1962

S.O. 2310.—In exercise of the powers conferred by section 27 of the Indian Arms Act, 1878 (11 of 1878), the Central Government hereby exempts His Highness Maharaja JIGME WANGCHUK of Bhutan from the operation of the prohibitions and directions contained in section 6 of the said Act in respect of the import from M/s. Imperial Chemical Industries Ltd., Birmingham (England) into India at the port of Calcutta, transport through India and export out of India into Bhutan of the following quantity of ammunition which is required for the personal use of His Highness the Maharaja of Bhutan—

(i) 275 HV Rigby Magnum Rimless 140 grains SPSN	.....	One thousand cartridges.
(ii) 30 Carbine M.I. Rifle for U.S.A. Carbine	.....	Two thousand cartridges.

[No. 17/3/62-Police IV.]

N. SAHGAL, Jt. Secy.

New Delhi, the 17th July 1962

S.O. 2311.—Whereas arrangements have been made by the Central Government with the Government of Mauritius for taking the evidence of witnesses residing in Mauritius in relation to criminal matters in courts in India, the Central Government, in pursuance of sub-section (3) of section 504 of the Code of Criminal Procedure, 1898 (5 of 1898), hereby directs that commissions from courts in India for the examination of witnesses in Mauritius shall be issued in the form annexed hereto, to the Supreme Court of Mauritius and that such commissions shall be sent to the Ministry of External Affairs, Government of India, New Delhi, for transmission to the Supreme Court of Mauritius.

IN THE COURT OF

Commission to examine witness outside India [Section 504(3) of the Code of Criminal Procedure, 1898].

To

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.....
.....

Through the Ministry of External Affairs,
Government of India,
New Delhi.

Whereas it appears to me that the evidence of is necessary for the ends of justice in case No. Vs. in the Court of and that such witness is residing within the local limits of your jurisdiction and his attendance cannot be procured without unreasonable delay, expense or inconvenience, I have the honour to request and do hereby request that for the reasons aforesaid and for the assistance of the said Court you will be pleased to summon the said witness to attend at such time and place as you shall appoint and that you will cause such witness to be examined upon the interrogatories which accompany this commission (for *viva voce*).

Any party to the proceeding may appear before you by his counsel or agent or if not in custody, in person and may examine, cross-examine or re-examine (as the case may be) the said witness.

And I further have the honour to request that you will be pleased to cause the answers of the said witness to be reduced into writing and all books, letters, papers, and documents produced upon such examination to be duly marked for identification and that you will be further pleased to authenticate such examination by your official seal (if any) and by your signature and to return the same together with this commission to the undersigned through the Ministry of External Affairs, Government of India, New Delhi.

Given under my hand and the seal of the Court this day of.....19 ..

Judge
District Magistrate
Presidency Magistrate.

[No. F. 11/6/62-Judl.II.]

B. SHUKLA, Dy. Secy.

MINISTRY OF EXTERNAL AFFAIRS

New Delhi, the 10th July 1962

S.O. 2312.—In exercise of the powers conferred by section 4 of the Foreign Jurisdiction Act, 1947 (47 of 1947), the Central Government hereby directs that in clause 1(1) of the Collection of Statistics (Application to the State of Pondicherry) Order, 1961 (published as S.O. 1089 dated the 2nd April, 1962) for the figures "1961", the figures "1962" shall be substituted.

[No. 36(9)/PONDY/61.]

C. S. AHLUWALIA,
Attache (GP).

MINISTRY OF FINANCE

(Department of Expenditure)

New Delhi, the 13th July 1962

S.O. 2313.—In pursuance of clause (3) of article 77 of the Constitution and of all other powers enabling him in this behalf, the President hereby makes the following rules further to amend the Delegation of Financial Powers Rules, 1958, namely:—

1. (i) These rules may be called the Delegation of Financial Powers Eleventh Amendment Rules, 1962.

(ii) They shall be deemed to have come into force on the 28th May, 1962.

2. In the Delegation of Financial Powers Rules, 1958, in Schedule VII:—

(i) against the entries relating to the powers of 'Heads of Departments' regarding write off of "Irrecoverable losses of stores or of public money (including loss of stamps)", after item (1) and the entries relating thereto in columns 2 and 3, the following shall be inserted, namely:—

(i) (a)	"Column 2	Column 3
	Director, Indian Bureau of Mines.	Rs. 10,000";

(ii) against the entries relating to the powers of 'Heads of Departments' regarding write off of losses on account of "Deficiencies and depreciation in the value of stores included in the stock and other accounts"

after item (vii) and the entries relating thereto in columns 2 and 3, the following shall be inserted, namely:—

"Column 2

(viii) Director, Indian Bureau of Mines.

Column 3

Rs. 10,000."

[No. F.1(31)-E.II(A)/62.]

C. R. KRISHNAMURTHI, Dy. Secy..

(Department of Economic Affairs)

New Delhi, the 20th July 1962

S. 2314.— Statement of the Affairs of the Reserve Bank of India, as on the 6th July 1962.

BANKING DEPARTMENT

Liabilities	Rs.	Assets	Rs.
Capital paid up	5,00,00,000	Notes	23,77,19,000
Reserve Fund	80,00,00,000	Rupee Coin	2,60,000
National Agricultural Credit (Long-term Operations) Fund	61,00,00,000	Small Coin	3,10,000
National Agricultural Credit (Stabilisation) Fund	7,00,00,000	National Agricultural Credit (Long Term Operations) Fund	
		(a) Loans and Advances to :—	
		(i) State Governments	24,03,45,000
Deposits :—		(ii) State Co-operative Banks	11,63,87,000
		(iii) Central Land Mortgage Banks . . . . .	..
(a) Government		(b) Investment in Central Land Mortgage Bank Debentures	2,09,06,000
(i) Central Government	48,15,53,000	National Agricultural Credit (Stabilisation) Fund	
(ii) State Governments	25,19,39,000	Loans and Advances to State Co-operative Banks . . . . .	..
		Bills Purchased and Discounted :—	
(b) Banks		(a) Internal	
(i) Scheduled Banks	105,55,83,000	(b) External	
(ii) State Co-operative Banks	3,65,06,000	(c) Government Treasury Bills	58,59,35,000
(iii) Other Banks	1,78,000	Balances Held Abroad	6,78,03,000
		Loans and Advances to Governments**	13,85,00,000
(c) Others	193,42,09,000	Loans and Advances to :—	
		(i) Scheduled Banks†	2,40,82,000
Bills Payable	34,26,35,000	(ii) State Co-operative Banks†	119,53,74,000
Other Liabilities	17,80,17,000	(iii) Others	
		Investments	276,95,28,000
		Other Assets	41,34,71,000
Rupees	581,06,20,000	Rupees	581,06,20,000

*Includes Cash & Short-term Securities.

**Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund.

†Includes Rs. 90,00,000/- advanced to scheduled banks against usance bills under Section 17(4)(c) of the Reserve Bank of India Act.

‡Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund and the National Agricultural Credit (Stabilisation) Fund.

Dated the 11th day of July 1962.

An Account pursuant to the Reserve Bank of India Act, 1934, for the week ended the 6th day of July, 1962.

ISSUE DEPARTMENT

Liabilities	Rs.	Rs.	Assets	Rs.	Rs.
Notes held in the Banking Department	23,77,19,000		Gold Coin and Bullion :--		
Notes in circulation	<u>2094,77,43,000</u>		(a) Held in India	117,76,10,000	
TOTAL NOTES ISSUED	<u>2118,54,62,000</u>		(b) Held outside India		
			Foreign Securities	<u>91,77,44,000</u>	
			TOTAL		209,53,54,000
			Rupee Coin		114,79,32,000
			Government of India Rupee Securities		1794,21,76,000
			Internal Bills of Exchange and other commercial paper		
TOTAL LIABILITIES	<u>2118,54,62,000</u>		TOTAL ASSETS		<u>2118,54,62,000</u>

Dated the 11th day of July, 1962.

P. C. BHATTACHARYYA,
Governor.

[No. F. 3(2)-BC/62]

A. BAKSI, Jt. Secy.

(Department of Revenue)

ESTATE DUTY

New Delhi, the 23rd July 1962

S.O. 2315.—The Central Government hereby renews the appointment of the undermentioned Valuers whose names were previously published in Part II, Section 3(ii) of the Gazette of India, dated the 8th August, 1959 under S.O. 1733, for a further period of three years with effect from the 16th July, 1962.

S. No.	Name	Address
I. ENGINEERS/SURVEYORS/ARCHITECTS		
1	Shri Advani, Durgadas. B., M.I.E. (India)	16-A, Altamount Road, Cumballa Hill, Bombay-26.
2	Shri Agrawal, P. C., I.S.E. (Retd.) M.I.E., MASCE, MCI, MSCI.	Ex-Chief Engineer, U.P., Consulting Engineer, Taj Ganj, Agra.
3	Shri Barai, Natvarlal M., B.E., A.M.I.E., L.M.I.A.A. (Lond.).	Lentin Chambers, 36, Dalal Street, Fort Bombay-1.
4	Shri Bedekar, V. P., B.Sc., B.E., A.M.I.E. (Ind.).	Retired Executive Engineer, Miraj.
5	Shri Brijmohan Lal, M.I.E., I.S.E. (Retd.)	Retired Chief Engineer, 3/17, East Patel Nagar, New Delhi-12.
6	Shri Limayc, D. R., B.Sc., B.E., A.M.I.E. (Ind.)	1468, Sadashiv Peth, Near Khajina Vihir, Poona-2.
7	Shri Parikh, P.B., B.E., A.M.I.E. . . .	C/o Western India Engineering Company, Porwad Mansion, Mahatma Gandhi Road, Baroda.
8	Shri Rawal, Natwarlal N., B.E., A.M.I.E. (Ind.).	C/o Natwarlal N. Rawal & Co., Danapitha, Ahmedabad.
9	Shri Reuben, Samuel Simon, F.R.I.B.A. (Lond.), F.I.I.A.	C/o Simon & Co., Commissariat Building, 231, Dr. Dadabhoy Naoroji Road, Bombay.

II. ACCOUNTANTS

1	Shri Basu, S. K., B.A., F.C.A., F.S.A.A. . .	C/o S. K. Basu & Co., Temple Chambers, 6, Old Post Office Street, Calcutta.
2	Shri Mukherjee, P. N., B.Sc., F.S.A.A., F.C.A.	C/o P. N. Mukherjee & Co., 11, Old Post Office Street, Calcutta-1.

III. SPECIALIST IN AGRICULTURE & FARM VALUATION

1 Shri Iyengar, S. Rengaswamy, B.A., B.Ag. Retd. Divisional Agricultural Officer, Sri Nivas, Kaudiyan Post, Trivandrum-3.

The scale of charges for the remuneration of Valuers appointed by the Central Government for valuing any property shall be as fixed below and no such Valuer shall charge a fee at a scale higher than the scale so fixed:—

SCALE OF CHARGES

On the first Rs. 50,000/- of the property so valued 1 2% of the value

On the next Rs. 1,00,000/- of the property so valued 1 4% of the value.

On the balance of property so valued . . . 1 8% of the value.

[No. 11/F. No. 5/21/62-ED.]

T. R. VISWANATHAN, Dy. Secy.

(Department of Revenue)

ORDER

STAMPS

New Delhi, the 23rd July 1962

S.O. 2316.—In exercise of the powers conferred by clause (a) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby makes the following amendment to the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 8, dated the 7th November, 1960, namely:—

In clause (1) of the said notification, for the words “as security for advances granted by any such institution”, the words “by the registered holder of the shares as security for advances granted to him by any such institution” shall be substituted.

[No. 8—F. No. 1/64/61-Stamps/Cus.VII.]

J. DATTA, Under Secy.

CENTRAL BOARD OF REVENUE

INCOME-TAX

New Delhi, the 18th July 1962

S.O. 2317.—In exercise of the powers conferred by sub-section (1) of section 121 of the Income-tax Act, 1961 (43 of 1961) and in partial modification of all previous notifications on the subject the Central Board of Revenue hereby directs that with effect from the 4th June, 1962 (forenoon) Shri S. H. Bhat, a Commissioner of Income-tax, shall perform all the functions of Commissioner of Income-tax in respect of such areas or of such persons or classes of persons or such incomes or classes of incomes or such cases or classes of cases as are comprised in the Income-tax Circles, Wards or Districts in the State of Kerala and the Union Territory of Laccadive, Minicoy and Amindivi Islands:

Provided that he shall also perform his functions in respect of such persons or of such cases as have been or may be assigned by the Central Board of Revenue to any Income-tax Authority subordinate to him:

Provided further that he shall not perform his functions in respect of such persons or such cases as have been or may be assigned to any Income-tax authority outside his jurisdictional area.

While performing the said functions the said Shri S. H. Bhat shall be designated as the Commissioner of Income, Kerala with headquarters at Ernakulam.

Explanatory Note

Note.—The amendments have become necessary due to a change in the incumbent of the Commissioner's post.

(The above note does not form a part of the notification but is intended to be merely clarificatory).

[No. 37(F.No. 55/1/62-IT.]

J. RAMA, AYYAR, Under Secy.

MINISTRY OF COMMERCE AND INDUSTRY

New Delhi, the 18th July 1962

CENTRAL SILK BOARD

S.O.2318.—The following statement of account of the Central Silk Board for the period from 1st April, 1960 to 31st March, 1961, is published in the Gazette of India in keeping with the provisions of sub-rule 23 of Rule 37 of the Central Silk Board Rules, 1955.

Income	Rs.	Expenditure	Rs.
1. Opening Balance . . .	17,370.34	1. Administration of the Board	411,173.50
2. Deposit from M/s. P. Carlton & Co., Bombay.	50.00	(2) Other Developmental Expenditure.	
3. Grants-in-aid received from the Government of India.	784,633.43	(i) Publicity	44,473.47
		(ii) Expert under Colombo Plan.	7,731.62
4. Misc. Receipts . . .	65,025.50	(iii) Deputation of Officers—	
5. Adjustable advances(59-60)	1,239.00	Finalisation of accounts.	1,840.00
		(3) Central Schemes.	
		(i) A. I. Sericultural Training Institute, Mysore.	128,963.00
		(ii) Central Silkworm Seed Station, Srinagar.	103,411.94
		(iii) Silk Day Celebrations	19,149.80
		(iv) Grants to Universities and Laboratories.	14,200.00
		4. Amount surrendered to the Government.	119,360.24
		(5) Revolving advance out of the opening balance surrendered M/s. Carlton & Co.	1,000.00
		(6) (i) Amount refunded by Executive Engineer C. P. W. D. Srinagar (ii) Balance held by Certification Centre, New Delhi, out of advance surrendered (iii) Disbursement of amount due to staff shown in opening Balance (iv) amount received towards Silk Day Grants (1959-60) and (v) postage stamps realisation	1,015.84
		(7) Closing Balance . . .	15,988.76
TOTAL . . .	8,68,318.32	TOTAL . . .	8,68,318.32

[45 (1)/62-H. S. (2)]

R. KALYANASUNDARAM,
Under Secy.

New Delhi, the 24th July 1962

S.O. 2319.—In pursuance of sub-rule (4) of rule 155 of the Trade and Merchandise Marks Rules, 1959, it is hereby notified that, in exercise of the powers conferred by sub-rule (1) (b) of the said rule, the Central Government has removed the name of Shri K. Ramasubramanian from the Register of Trade Marks Agents.

[No. 6(3)-TMP/62.]

HARGUNDAS, Under Secy.

ORDER

New Delhi, the 21st July 1962

S.O. 2320/IDRA/6/17.—In exercise of the powers conferred by section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951) read with rules 5(1) and 8(1) of the Development Councils (Procedural) Rules, 1952, the Central Government hereby appoints Shri Bhagwat Dayal Sharma, Shri N. J. Ardeshir and Shri B. C. Sen Gupta, to be members, till the 16th April, 1964, of the Development Council established by the Order of the Government of India in the Ministry of Commerce and Industry No. S.O. 1258, dated the 17th April 1962 for the scheduled industries engaged in the manufacture or production of Paper, Pulp and Allied Industries and directs that the following amendments shall be made in the said Order, namely:—

In the said order,—

(i) after entry No. 24 relating to Shri Nirmal Kumar Sen, the following entry shall be inserted, namely:

"24A. Shri Bhagwat Dayal Sharma, General Secretary, Indian National Paper Mills Workers' Federation, Shram Shiver, Workshop Road, Yumunanagar, Distt. Ambala.";

(ii) for entry No. 25 relating to the Chief Controller of Printing and Stationery, the following entry shall be substituted, namely:—

"25. Shri B. C. Sen Gupta, Controller of Printing, Office of the Chief Controller of Printing and Stationery, 'B Barracks', Curzon Road, New Delhi.";

(iii) after entry No. 27 relating to Shri B. Hedburg, the following entry shall be inserted, namely:—

"27. Shri N. J. Ardeshir, President, All India Federation of Master Printers, 274, Tardeo Road, Bombay-7."

[No. 4(38)L.Pr/62.]

K. J. GEORGE, Dy. Secy.

ORDER

New Delhi, the 23rd July 1962

S.O. 2321/IDRA/6/7.—In exercise of the powers conferred by section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951) read with the rules 5(1) and 8(1) of the Development Councils (Procedural) Rules, 1952, the Central Government hereby appoints Colonel Ved Prakash, Deputy Director General (Equipment and Stores) Armed Forces Medical Services, New Delhi, to be a member, till the 9th August, 1963, of the Development Council established by the Order of the Government of India in the Ministry of Commerce and Industry No. S.O. 1946 dated the 10th August, 1961 for the scheduled industries engaged in the manufacture or production of Drugs and Pharmaceuticals and directs that the following amendment shall be made in the said Order, namely:—

In the said Order for entry No. 16 relating to Col. D. S. Shukla, the following entry shall be substituted, namely:—

"16. Col. Ved Prakash, Deputy Director General (Equipment and Stores), Armed Forces Medical Services, Ministry of Defence, New Delhi.
Consumers",

[No. 1(14)L.Pr./60.]

CORRIGENDUM

New Delhi, the 21st July 1962

S.O. 2322.—In the Ministry of Commerce and Industry Order No. S.O. 769, dated the 28th March, 1961, published in Part II Section 3 Sub-Section (ii) of the Gazette of India dated the 8th April, 1961:

<i>For</i> "13. Pratap Narayan, Major General (Retd.), M/s. Utkal Machinery (P) Ltd., I. C. House, Dougal Road, Ballard Estate, Fort, Bombay-1."	<i>Owners.</i> " <i>Read</i> "13. Pratap Narayan, Major General (Retd.), Electrical Manufacturing Co. Ltd., EMC Gardens, 136, Jessore Road, Calcutta-28."	<i>Owners.</i> " [No. 1(13)L.Pr./60.]
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B. R. ABHYANKER, Under Secy.

(Indian Standards Institution)

New Delhi, the 17th July 1962

S.O. 2323.—In pursuance of sub-regulations (2) and (3) of regulation 3 of the Indian Standards Institution (Certification Marks) Regulations, 1955, as amended in 1962, the Indian Standard Institution hereby notifies that the Indian Standards, particulars of which are given in the Schedules hereto annexed, have been established during the period 10th July to 15th July 1962.

THE SCHEDULE

Serial No.	No. and Title of the In- dian Standard established	No. and Title of the In- dian Standard or Standards if any, superseded by the new Indian Standard	Brief Particulars
(1)	(2)	(3)	(4)
1.	IS : 221—1962 Specifica- tion for Ink Fluid, Blue- Black for Permanent Records (<i>Revised</i>)	IS : 221—1950 Specifica- tion for Fluid Ink for Registration and for Cheques and Records	This standard prescribes the requirements and the methods of sampling and test for ink fluid, blue-black, for permanent records (Price Rs. 1.50).
2.	IS : 511—1962 Specifica- tion for Tamarind Ker- nel Powder for Use in the Jute Textile Indus- try	IS : 511—1954 Specifica- tion for Tamarind Ker- nel Powder for use in the Jute Textile Indus- try (<i>Tentative</i>)	This Indian Standard, which was published as tentative in 1954, is now being issued as firm Indian Standard.
3.	IS : 715—1962 Specifica- tion for Coated Abrasi- ves, Glue Bond (<i>Revised</i>)	IS : 715—1957 Specifica- tion for Coated Abrasi- ves, Glue Bond	This standard covers the require- ments for coated abrasives in, the form of sheets, rolls, belts, discs and converted shapes, with paper, cloth or combina- tion backing and any one of the following as abrasive material: (a) Flint; (b) Glass; (c) Garnet; (d) Emery, natural or synthetic; (e) Corundum; (f) Silicon carbide; and (g) Synthetic aluminium oxide. (Price Rs. 3.00).
4.	IS : 1940—1961 Methods of Chemical Analysis of Tin Ingots	..	This standard covers the analysis of tin ingot and prescribes me- thods for the determination of the following eight elements

(1)

(2)

(3)

(4)

that may be present in commercial tin ingot in the range indicated against each :

	<i>Per cent</i>
Lead . . .	0·50 to 1·50
Copper . . .	0·10 to 0·40
Bismuth . . .	0·01 to 0·10
Iron . . .	0·02 to 0·05
Nickel . . .	0·005 to 0·015
Arsenic . . .	0·005 to 0·015
Antimony . . .	0·10 to 0·40
Sulphur . . .	0·005 to 0·01

NOTE.—Tin is determined by difference (Price Rs. 3·50).

5. IS : 1980—1961 Specification for Ceramic Dielectric Capacitors, Type I ..

This standard prescribes the requirements and methods of tests for judging the mechanical, electrical and climatic properties of ceramic dielectric capacitors type I intended for use in equipment for telecommunication and in electronic devices employing similar techniques (Price Rs. 5·00).

6. IS : 2041—1962 Specification for Steel Plates for Pressure Vessels ..

This standard cover the requirements for two types of steel plates for the fabrication of fusion welded pressure vessels (Price Rs. 2·00)

Copies of these Indian Standards are available, for sale, with the Indian Standards Institution Manak Bhawan, 9 Mathura Road, New Delhi-1, and also at its Branch Offices at (i) 232 Dr. Dada-bhoy Naoroji Road, Fort, Bombay-1, (ii) Third Floor, 11 Sooterkin Street, Calcutta-13, (iii), 2/21 First Line Beach, Madras-1, (iv) 14/69 Civil Lines, Kanpur.

[No. MD/13:2]

S. O. 2324.—In pursuance of regulation 4 of the Indian Standards Institution (Certification Marks) Regulations, 1955, as amended in 1962, the Indian Standards Institution hereby notifies that amendments to the Indian Standards given in the Schedule hereto annexed have been issued under the powers conferred by sub-regulation (1) of regulation 3 of the said regulations.

THE SCHEDULE

Sl. No.	No. and title of the Indian Standard amended	No. & date of Gazette Notification in which the establishment of the Indian Standard was notified	No. & date of the Amend- ment	Brief particulars of the Amend- ment	Date of effect of the Amendment
(1)	(2)	(3)	(4)	(5)	(6)
1	IS: 912-1958 Specification for Braided Air Hose, Light Duty.	S.O. 567 dated 14th March 1959	No. 1 June 1962	On page 3 in Table I, the existing footnote has been deleted and substituted by a new footnote.	1st August 1962
2	IS: 913-1958 Specification for Braided Water Hose, High Pressure.	S.O. 567 dated 14th March 1959	No. 1 June 1962	On page 3 in Table I, the existing footnote has been deleted and substituted by a new footnote.	1st August 1962
3	IS: 914-1958 Specification for Braided Water Hose, Low Pressure.	S.O. 567 dated 14th March 1959	No. 1 June 1962	On page 3 in Table I, the existing footnote has been deleted and substituted by a new footnote.	1st August 1962
4	IS: 1221-1957 Specification for Dye Based Fountain Pen Inks (Blue, Green, Violet, Black and Red).	S.O. 544 dated 19th April 1958	No. 1 April 1962	(i) In sub-clause 2.1.1, the following definition has been substituted for the existing definition : <i>'2.1.1 Sediment.—All undissolved matter that may be found at the bottom or walls of the container as well as suspended in the body or on the surface of the fluid ink.'</i>	1st August 1962

(1)	(2)	(3)	(4)	(5)	(6)
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- (ii) In sub-clause 4·5·2, lines 6 to 9 'a reference ink made from the appropriate dye in concentration recommended under 4·3' has been substituted for 'a standard ink made by dissolving the quantity of the appropriate dye recommended under 4·3 in one litre of distilled water.'
- (iii) In sub-clause C-1·1·3, lines 9 and 10, 'the reference ink (see 4·5·2)' has been substituted for 'the standard ink (see 4·5·2)'.
- (iv) In sub-clause C-1·1·4, line 1, 'the reference ink' has been substituted for 'the standard ink'.
- (v) In sub-clause 1·1·5, lines 2 and 4, 'the reference ink' has been substituted for 'the standard ink'.
- (vi) The existing clause C-2·1 has been deleted and substituted by a new clause.
- (vii) In clause C-2·2, lines 3 and 4, 'the reference ink and the diluted reference ink, respectively' has been substituted for 'the standard ink and the diluted standard ink, respectively.'
- (viii) In clause C-3·2, line 2, 'the reference ink' has been substituted for 'the standard ink'.

5 IS : 1677-1960 Specification for Spray Hose, High Pressure, for Agricultural Purposes.

S.O. 341 dated 11th February 1961

No. 1
June 1962

- (ix) In clause C-3.3, lines 2 and 3, 'diluted reference ink (50 : 50 by volume)' has been substituted for 'diluted standard ink (50 : 50 by volume)'.
- (x) In clause C-3.4, lines 3 and 4, 'the reference ink and the diluted reference ink respectively' has been substituted for 'the standard ink and the diluted standard ink, respectively,

On page 5 in Table I, the existing footnote has been deleted and substituted by a new footnote.

1st August 1962

Copies of these Amendment Slips are available, free of cost, with the Indian Standards Institution, Manak Bhavan, 9, Mathura Road, New Delhi-1, and also at its Branch Offices at (i) 232, Dr. Dadabhai Naoroji Road, Bombay-1, (ii) Third Floor, 11, Sooterkin Street, Calcutta-13, (iii) 2/21, First Line Beach, Madras-1, and (iv) 14/69, Civil Lines, Kanpur.

[No. MD : 13:5]

S.O. 2325.—In exercise of the powers conferred by sub-regulations (2) and (3) of regulation 3 of the Indian Standards Institution (Certification Marks) Regulations, 1955, as amended in 1962, the Indian Standards Institution hereby notifies the issue of erratum slip particulars of which are given in column (4) of the Schedule hereto annexed, in respect of the Indian Standard specified in column (2) of the said Schedule.

THE SCHEDULE

Serial No. and Title of Indian Standard	No. and date of Gazette Notification in which establishment of Indian Standard was notified	Particulars of Errata Slip Issued	
(1)	(2)	(3)	(4)
I. IS : 1920-1961 Specification for White Indian Hemp Line	S.O. 910 dated 31st March 1962	On page 4 in clause 10.1 line 3, please read '25.4' for '28.58'.	

Copies of this erratum slip are available free of cost, with the Indian Standards Institution, Manak Bhavan, 9, Mathura Road, New Delhi-1, and also at its Branch Offices at (i) 232, Dr. Dadabhai Naoroji Road, Bombay-1, (ii) Third Floor, 11, Sooterkhan Street, Calcutta-13, (iii) 2/21, First Line Beach, Madras-1, and (iv) 14/69, Civil Lines, Kanpur.

[No. MD/13:6]

S. O. 2326.—In partial modification of the rate of marking fee for DDT Dusting Powder notified in the Schedule annexed to the Ministry of Commerce & Industry (Indian Standards Institution) Notification No. S.R.O. 3089 dated the 11th December 1956, published in the Gazette of India, Part II—Section 3 dated the 22nd December 1956, the Indian Standards Institution hereby notifies that the marking fee per unit for DDT Dusting Powder, details of which are given in the Schedule hereto annexed has been revised. The revised rate of marking fee shall come into force with effect from 10th July 1962.

THE SCHEDULE

Serial No.	Product/Class of Product	No. and Title of relevant Indian Standard	Unit	Marking Fee per Unit
(1)	(2)	(3)	(4)	(5)
I.	DDT Dusting Powder	IS : 564-1961 Specification for DDT Powder (Revised)	One Tonne	Rs. 2.00

[No. MD/18:2]

A. N. GHOSH,
Ag. Director

MINISTRY OF MINES & FUEL

New Delhi, the 23rd July 1962

S.O. 2327.—In exercise of the powers conferred by clause (I) of article 209 of the Constitution, the President hereby directs that the following instruments may be executed on his behalf by the Chairman, National Mineral Development Corporation, Limited namely:—

"All contracts and instruments relating to purchase, supply and conveyance, or carriage of materials, stores, machinery, etc., for the Kiriburu Iron Ore Project of the National Mineral Development Corporation Limited from M/s. Ataka & Co., Tokyo, Japan."

[No. F. 10(81)/59-MIV.]

N. N. KASHYAP, Jt. Secy.

DELHI DEVELOPMENT AUTHORITY

New Delhi, the 21st July 1962

S.O. 2328.—In pursuance of the provisions of sub-section (4) of section 22 of the Delhi Development Act, 1957, the Delhi Development Authority has replaced at the disposal of the Central Government the land described in the schedule below for placing it at the disposal of the Land and Development Officer, Ministry of Works Housing and Supply, Government of India, New Delhi.

SCHEDULE

Piece of land measuring 15.117 acres bearing khasra Nos. 560 min/180, 561 min/180, 562 min/181, 182 min, situated in Arakpur Bagh Mochi Estate.

The above piece of land is bounded as follows:—

NORTH:	Pucca Ring Road.
SOUTH:	Government Land.
EAST:	Nazul Land.
WEST:	Government Land.

[No. L16(364)57.]

R. K. VAISH, Secy.

BOMBAY CENTRAL EXCISE COLLECTORATE

CENTRAL EXCISES

Bombay, the 13th July 1962

S.O. 2329.—In exercise of the powers conferred upon me by Rule 233 of the Central Excise Rules, 1944, I direct that all licensed manufacturers of Paints, Pigments Varnishes etc. falling under item 14 of the first Schedule to the Central Excise and Salt Act, 1944, shall indicate in the R.T. 3 return as well as clearance application in form ARI the progressive total of their output and the progressive total of their clearance during the financial year.

Provided that the manufacturers who are not entitled to the benefit of assessing their products to duty at the concessional rates provided in Government of India, Ministry of Finance, (Department of Revenue) Notification Central Excises No. 137/60 dated the 1st October, 1960, need not furnish the information as aforesaid.

[No. CER/233/CX/5/62.]

G. KORUTHU, Collector.

POONA CENTRAL EXCISE COLLECTORATE

CENTRAL EXCISES

Poona, the 21st June 1962

S.O. 2330.—In pursuance of Rule 5 of the Central Excise Rules, 1944, I empower the Superintendents of Central Excise to accept general bonds in form B-13 (Central Excise series No. 32 H and 32 I) and the Inspectors of Central Excise to accept bonds in form B-10 (Central Excise series Nos. 32-C and 32-D) covering any particular consignment.

[C.E.R. No. 10/1962.]

B. D. DESHMUKH, Collector.

OFFICE OF THE SUPERINTENDENT OF CUSTOMS, SAWANTWADI

NOTICE

Sawantwadi, the 20th July 1962

S.O. 2331.—Whereas it appears that the goods as mentioned in the under-mentioned table seized in the vicinity of the Indo-Goa border were about to be exported by land to Goa (Portuguese possession in India) in contravention of the Rules and Notifications as mentioned against each.

S. No.	Dt. and place of seizure	By whom detected	Description of goods	Qty.	Rules contravened
1	2		4	5	6
1	Fakirpata, chowkey No. 35 & 36 on 6-2-1961.	State Police staff.	Opium . . . Tobacco . . . Tea . . . Photos . . . Calenders . . . Bush shirt & Pant . . . Mirror, bigger size . . . do., smaller size . . . Do. . . Pickles . . . Wooden flutes . . . Flower pin packets . . . 3 gunny bags containing the above goods.	75 tolas 2 boxes ½ lb. 7 7 1 each 21 17 20 8 bottles 136 11 each of one dozen.	Section 5(1) of Land Customs Act, 1924 and Govt. of India, Minis- try of Com- merce & Indus- try, Export Con- trol Order No. 1 of 1958 dated 1-5-58.

2. Now, therefore, any person claiming the goods is hereby called upon to show cause to the Superintendent of Customs, Sawantwadi why the above mentioned goods should not be confiscated under Section 5(3) of the Land Customs Act, 1924 read with Section 167(8) and 168 of the Sea Customs Act, 1878 and why a penalty should not be imposed on him under Section 7(1)(c) of Land Customs Act, 1924 read with Section 167(8) of the Sea Customs Act, 1878.

3. If such an owner fails to turn up to claim the above mentioned unclaimed goods or to show cause against the action proposed to be taken within 30 days from the date of publication of this notice in the Government of India Gazette, the goods in question will be treated as unclaimed and the case will be decided accordingly.

[No. VIII/10-151/61J]

K. V. BOLE, Superintendent.

ERRATA

In notification No. VIII(b)10(16)-Cus/62, dated 18th April, 1962 of the Office of the Collector of Central Excise and Land Customs, Bombay, published in the Gazette of India, Part II—Section 3(ii), dated 28th April, 1962 as S.O. 1222, the following correction is to be made:—

Page 1263, margin of the notice—

for	"Ts.	M.	Gs.
	0	1	2"
read	"Ts.	M.	Gs.
	60	1	2"

MINISTRY OF TRANSPORT AND COMMUNICATIONS
Departments of Communications and Civil Aviation—P. & T. Board)

New Delhi, the 9th July 1962

S.O. 2332.—In pursuance of sub-rule (2) of rule 11, clause (b) of sub-rule (2) of rule 14 and sub-rule (1) of rule 23 of the Central Civil Services (Classification, Control and Appeal) Rules, 1957, the President hereby makes the following further amendment in the notification of the Government of India in the late Ministry of Communications (Posts and Telegraphs) No. SRO 620, dated the 28th February, 1957, namely:—

In Part II, General Central Service, Class III of the Schedule to the said notification, in the entries in column 3 against the item "Inspectors of Peons" under the heading "Telegraph Offices under the charge of Officers of Telegraph Traffic Service, Class I or Class II, Officers of Telegraph Engineering and Wireless Service, Class II, Telegraph Masters and Telegraphists", for the words figures and brackets "(in respect of staff working in an office under the charge of an officer of Telegraph Traffic Service Class II)", the following words figures and brackets shall be substituted, namely:—

"(in respect of staff working in an office under the charge of an officer of Telegraph Traffic Service, Class I)".

[No. 44/16/60-Disc.]

D. K. AGARWAL,
Assistant Director General.

MINISTRY OF FOOD & AGRICULTURE
(Department of Agriculture)

New Delhi, the 18th July 1962

S.O. 2333.—In pursuance of clause (f) of rule 3 of the Agricultural Produce (Grading and Marking) Act, 1937 and clauses (i) and (k) of rule 4 of the General Grading and Marking Rules, 1937 and in supersession of the Notification of the Government of India in the Ministry of Food and Agriculture (Department of Agriculture) No. F.17-15/60-AM dated the 4th January, 1961, the Central Government hereby directs that a fee at the rate of 30 naye paise per kilogram of bristles or part thereof shall be charged for affixing an Agmark label to any package or covering containing bristles with effect from 5th August, 1962.

Provided that, in the case of a packet containing a commercial sample of bristles despatched by post weighing more than 200 grams but not more than 2 kilograms, a fee at the flat rate of 60 naye paise per packet shall be levied irrespective of the weight or grade.

[No. F.17-4/60-AM.]

S.O. 2334.—In exercise of the powers, conferred by section 3 of the Agricultural Produce (Grading and Marking) Act, 1937 (1 of 1937), the Central Government hereby makes the following rules further to amend the Bristles Grading and Marking Rules, 1950, the same having been previously published as required by the said section, namely:—

1. These rules may be called the Bristles Grading and Marking (Amendment) Rules, 1962.
2. In the Bristles Grading and Marking Rules, 1950 (hereinafter referred to as the said rules), for rule 2, the following rule shall be substituted, namely:—
 - "2 Grade Designations.
 (1) Grade designations to indicate the quality of bristles shall be as set out in column 1 of Schedules I to IX.
 - (2) In addition to the grade designations referred to in sub-rule (1), there shall also be a "Special Grade" which shall satisfy the conditions specified in Schedule IX-A".
3. In rule 5 of the said rules, after item (v), the following item shall be inserted, namely:—
 - "(vi) General/Special".

4. In sub-rules (iii) and (iv) of rule 6 of the said rules, for the expression "over 5", the expression "over 121 mm (4½ inches)" shall be substituted.

5. After Schedule IX to the said rules, the following Schedule shall be inserted, namely:—

"Schedule IX-A" [See rule 2(2)].

Special Grade designations of bristles.

In addition to the requirements specified for General Grade in Schedules I to IX, Special Grade bristles shall satisfy the following requirements, namely:—

(1) Subject to the tolerance limits specified below, all bristles shall be free from nits (egg capsules left by hog lice).

(i) bristle bundles shall not contain more than 8 infested hairs per bundle of bristles up to and inclusive of 95 mm (3½") in length;

(ii) bristle bundles shall not contain more than 5 infested hairs per bundle of bristles up to and inclusive of 95 mm (3½") in length;

(III) the following colour tolerance limits:

(i) in grade 114 mm (4½") and over—Nonwhites shall not exceed 1 per cent.

(ii) in grade 108 mm to 51 mm (4½" to 2")—Nonwhites shall not exceed 2 per cent.

(iii) in shorts and riflings—nonwhites shall not exceed 3 per cent.

(2) All bristles shall have root ends and fib ends pointing in opposite directions and shall be "solid dressed" which term mean such dressing as to contain:

(i) a minimum of 90 per cent of the specified grade designation length (called "tops"), the balance being made up of the next two lower grade lengths and unavoidables, the maximum tolerance for the latter being 3 per cent in the case of grade designation 102 mm and over (4" and over);

(ii) a minimum of 80 per cent of the specified grade designation length (called "tops") the balance being made up of the next two lower grade lengths and unavoidables, the maximum tolerance for the latter being 5 per cent in the case of designations 95 mm to 64 mm (3½" to 2"); and

(iii) for grade 57 mm and 51 mm (2½" and 2"), a minimum of 80 per cent of bristles of the specified grade designation length (called tops), the balance being made up of the next lower grade lengths and unavoidables."

[No. F.17-4/60-AM.]

CORRIGENDUM

New Delhi, the 16th July 1962

S.O. 2335.—In the notification of the Ministry of Food and Agriculture (Department of Agriculture), No. S.O. 1006, dated the 27th of March, 1962, published on pages 928-929 of the Gazette of India dated the 7th of April, 1962, Part II Section 3, Sub-Section (II), at page 929, in item 11,

(I) for "3½ diameter", read "3½" diameter";

(II) for "69 mm diameter", read "89 mm diameter".

[No. F. 17-1/62-AM.]

V. S. NIGAM, Under Secy.

(Department of Agriculture)

CORRIGENDUM

New Delhi, the 16th July 1962

S.O. 2336.—In S.O. 1959 dated the 23rd June, 1962:

(I) in Column 2 under S. No. 14 Seeds, read "Castor seed" for "Caster seed";

(II) in Column 4 under S. No. 14 Seeds against the entries "Celery seeds" and "Cummin-seed (white)", substitute "Rs. 240/-" and "Rs. 180/-" respectively for existing figures; and

(iii) in Column 2 under S. No. 17 Tobacco unmanufactured, read "Non-flue cured" for "On-flue cured".

[No. F. 4-2/62-C(E).]

N. RANGANATHAN, Under Secy.

(Department of Agriculture)
(I.C.A.R.)

New Delhi, the 18th July 1962

S.O. 2337.—In pursuance of the provisions of Sub-Section (t) of Section 4 of the Indian Oilseeds Committee Act, 1946 (9 of 1946), the Central Government hereby appoint the Joint Secretary to the Government of India, Ministry of Finance (Accredited to the Department of Agriculture), New Delhi as a member of the Indian Central Oilseeds Committee for the period ending on 31st March, 1965.

[No. 8-34/62-Com.II.]

S.O. 2338.—In pursuance of the provision of Sub-Section (1) of Section 4 of the Indian Oilseeds Committee Act, 1946 (9 of 1946), the Central Government hereby appoint Shri C. V. Marwala, Chairman, Bombay Oilseed Crushers' Association, Bombay, as a member of the Indian Central Oilseeds Committee, to represent the power oilseed crushing industry, for the period ending on 31st March, 1965.

[No. 8-38/62-Com.II.]

New Delhi, the 20th July 1962

S.O. 2339.—The Federation of Rural Peoples' Organisation having nominated Shri G. U. Rao to represent the Federation on the Indian Central Oilseeds Committee under Section 4(q) of the Indian Oilseeds Committee Act, 1946 (9 of 1946), the Central Government hereby notifies that Shri G. U. Rao shall be a member of the said Committee for the period ending 31st March, 1965.

[No. 8-21/62-Com.II.]

N. K. DUTTA, Under Secy.

MINISTRY OF WORKS, HOUSING AND SUPPLY

New Delhi, the 20th July 1962

S.O. 2340.—In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules to amend the Directorate General Supplies and Disposals (Officer on Special Duty) (Litigation) Recruitment Rules, 1960, published with the notification of the Government of India in the Ministry of Works, Housing and Supply No. S.O. 496, dated the 22nd February, 1960 in the Gazette of India, Part II, Section 3—Sub-section (ii), dated the 27th February, 1960, namely:—

1. These rules may be called the Directorate General Supplies and Disposals (Officer on Special Duty) (Litigation) Recruitment Amendment Rules, 1962.
2. In the Directorate General Supplies and Disposals (Officer on Special Duty) (Litigation) Recruitment Rules, 1960, in the Schedule,—
 - (1) in column 4, for the existing entry, the following shall be substituted, namely:—
"Rs. 1600/- — 100/- — 2000/-";
 - (2) in column 5, the existing entry shall be omitted;
 - (3) in column 8, the existing entry shall be omitted;
 - (4) in column 10, for the existing entry, the following entry shall be substituted, namely:—
"By deputation failing which by direct recruitment";
 - (5) in column 11, for the existing entry, the following shall be substituted, namely:—

"Deputation of an officer appointed or approved for appointment, to a Grade II post in the Central Legal Service";

(6) in column 12, the existing entry shall be omitted.

[No. 49/3/58-ESI.]

R. RAJAGOPALAN, Under Secy.

(Department of Rehabilitation)

(Office of the Chief Settlement Commissioner)

New Delhi, the 13th July 1962

S.O. 2341.—Whereas the Central Government is of the opinion that it is necessary to acquire the evictee properties specified in the schedule hereto annexed in the State of U.P. for a public purpose being a purpose connected with the relief and rehabilitation of displaced persons, including payment of compensation to such persons.

Now, therefore, in exercise of the powers conferred by section 12 of the Displaced Persons (Compensation & Rehabilitation) Act, 1954 (44 of 1954), it is notified that the Central Government has decided to acquire and hereby acquires the evictee properties specified in the schedule hereto annexed.

A SCHEDULE

All properties in the State of U.P. which have vested in the Custodian under Section 11 of the Evacuee Interest (Separation) Act, 1951, as a result of adjudication by the Competent Officers under the provisions of the said Act upto 30th June 1962 and in respect of which no appeals have been filed and if filed, have been rejected by the Appellate Officers.

[No. 2(21) /Comp.&Prop/61.]

New Delhi, the 18th July 1962

S.O. 2342.—Whereas the Central Government is of the opinion that it is necessary to acquire the evictee properties specified in the Schedule hereto annexed in the states of Gujarat, Maharashtra, Andhra Pradesh, Madras, Mysore and Kerala for a public purpose being a purpose connected with the relief and rehabilitation of displaced persons, including payment of compensation to such persons.

Now, therefore, in exercise of the powers conferred by section 12 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954) it is notified that the Central Government has decided to acquire and hereby acquires the evictee properties specified in the schedule hereto annexed.

A SCHEDULE

All properties in the states of Gujarat, Maharashtra, Andhra Pradesh, Madras, Mysore and Kerala which have vested in the Custodian under section 11 of the Evacuee Interest (separation) Act, 1951, as a result of adjudication by the Competent Officers under the provisions of the said Act upto 30th June, 1962, and in respect of which no appeals have been filed and if filed, have been rejected by the Appellate Officer.

[No. 1(27)/Comp. & Prop. 61]

S.O. 2343.—Whereas the Central Government is of the opinion that it is necessary to acquire the evictee properties specified in the schedule hereto annexed in the States of Delhi, Madhya Pradesh, Bihar and Orissa for a public purpose being a purpose connected with the relief and rehabilitation of displaced persons, including payment of compensation to such persons.

Now, therefore, in exercise of the powers conferred by section 12 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954) it is notified that the Central Government has decided to acquire and hereby acquires the evictee properties specified in the schedule hereto annexed.

A SCHEDULE

All properties in the State of Delhi, Madhya Pradesh, Bihar and Orissa which have vested in the custodian under section 11 of the Evacuee Interest (separation)

Act, 1951, as a result of adjudication by the Competent Officers under the provisions of the said Act upto 30th June, 1962 and in respect of which no appeals have been filed and if filed, have been rejected by the Appellate Officer.

[No. 22(14)/Comp. & Prop. 61.]

New Delhi, the 20th July 1962

S.O. 2344.—Whereas the Central Government is of the opinion that it is necessary to acquire the evictee properties specified in the schedule hereto annexed in the state of Rajasthan for a public purpose being a purpose connected with the relief and rehabilitation of displaced persons, including payment of compensation to such persons.

Now, therefore, in exercise of the powers conferred by section 12 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954) it is notified that the Central Government has decided to acquire and hereby acquires the evictee properties specified in the schedule hereto annexed.

A SCHEDULE

All properties in the State of Rajasthan which have vested in the Custodian under section 11 of the Evacuee Interest (Separation) Act, 1951, as a result of adjudication by the Competent Officers under the provisions of the said Act, upto 30th June, 1962 and in respect of which no appeals have been filed and if filed, have been rejected by the Appellate Officer.

[No. 22(13)/comp. & Prop/61.]

M. J. SRIVASTAVA,
Settlement Commissioner and Ex-Officio, Under Secy.

(Department of Rehabilitation)
(Office of the Chief Settlement Commissioner)

New Delhi, the 18th July 1962

S.O. 2345.—In exercise of the powers conferred by Sub-Section (1) of Section 6 of the Administration of Evacuee Property Act, 1950 (XXXI of 1950) the Central Government hereby appoints for the State of Maharashtra Shri H. B. Saxena as Assistant Custodian for the purpose of discharging the duties imposed on Custodian by or under the said Act with effect from the date he took over charge of his office.

[No. 7(54)ARG/61.]

KANWAR BAHADUR,
Settlement Commissioner (A) and
Ex-Officio Dy. Secy.

MINISTRY OF HEALTH

New Delhi, the 19th July 1962

S.O. 2346.—In exercise of the powers conferred by sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consultation with the Medical Council of India, hereby directs that the Medical qualification Doctor of Medicine granted by the University of Washington, United States of America, shall be a recognised medical qualification for the purpose of this Act.

[No. F. 18-28/61-MI.]

ORDER

New Delhi, the 19th July 1962

S.O. 2347.—Whereas the Government of India in the Ministry of Health has, by notification No. F.18-28/61-MI, dated the 19th July, 1962, made in exercise of the powers conferred by sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), recognised the Medical qualification Doctor of Medicine granted by the University of Washington, United States of America for the purposes of the said Act;

Now, therefore, in exercise of the powers conferred by the proviso to sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956) the Central Government hereby specifies the period of 2 years with effect from the date of this Order or so long as Dr. Dorothy Mary Munce, who possesses the said qualification, continues to work in the Godavari Delta Mission Women's Hospital, Narsapur (Godavari), to which she is attached for the time being for the purposes of teaching, research or charitable work, whichever is shorter, as the period to which the medical practice of the said Dr. Dorothy Mary Munce shall be limited.

[No. F.16-28/61MI.]

B. B. L. BHARADWAJ, Under Secy.

New Delhi, the 21st July 1962

S.O. 2348.—The following draft of rules further to amend the Drugs Rules, 1945, which the Central Government after consultation with the Drugs Technical Advisory Board, propose to make in exercise of the powers conferred by sections 12 and 33 of the Drugs Act, 1940 (23 of 1940), is published, as required by the said sections for the information of all persons likely to be affected thereby and notice is hereby given that the said draft will be taken into consideration on or after the 30th September, 1962.

Any objections or suggestions which may be received from any person with respect to the said draft before the date so specified will be considered by the Central Government.

Draft Rules

1. These rules may be called the Drugs (Amendment) Rules, 1962.

2. In the Drugs Rules, 1945 (hereinafter referred to as the said rules), in rule 2, after clause (i), the following clauses shall be inserted, namely:—

"(j) 'poisonous substance' means a substance specified in Schedule E;

(k) 'Schedule' means a Schedule appended to these rules.";

3. In rule 65 of the said rules,

(1) the proviso to sub-rule (2) shall be omitted;

(2) in sub-rule (3),—

(i) for item (f), the following item shall be substituted, namely:—

"(J) in the case of a drug specified in Schedule C, the name of the manufacturer, the batch number and the date of expiry, if any;";

(ii) after the existing proviso, the following proviso shall be inserted, namely:—

"Provided further that it shall not be necessary to record the particulars in respect of—

(a) any drug supplied against prescription under the Employees State Insurance Scheme if all the particulars are given in that prescription; and

(b) any drug other than that specified in Schedule E or Schedule L which is supplied in the original unopened container of the manufacturer on a prescription duly stamped at the time of supply with the name of the supplier and the date on which supply was made.";

(3) for sub-rule (4), the following sub-rule shall be substituted, namely:—

"(4) (a) the supply by retail, otherwise than on a prescription of a drug specified in Schedule E or Schedule C shall be recorded at the time of supply,—

(i) in a register specially maintained for the purpose in which the following particulars shall be entered:—

(A) serial number of the entry,

(B) the date of supply,

(C) the name and address of the purchaser,

(D) the name of the drug and quantity thereof,

(E) in the case of a drug specified in Schedule C, the name of the manufacturer, the batch number and the date of expiry.

(F) the signature of the person under whose supervision the sale was effected; or,

(ii) in a cash or credit memo book serially numbered containing all the particulars specified in items (B) to (F) of sub-clause (i) above.

NOTE.—The original cash or credit memo shall be written on a double carbon paper and shall be retained by the licensee as a record:

Provided that it shall not be necessary to record the particulars specified in item (C), when a drug referred to in item (12) of Schedule C which is not a poisonous substance, is supplied to a person for his *bona fide* use.

(b) the option to maintain a register or a cash or credit memo book shall be made in writing to the licensing authority at the time of application for a licence to sell by retail:

Provided that the licensee may opt for a change in the method of maintaining records at the time of renewal of such a licence";

(4) after sub-rule (4), the following sub-rule shall be inserted, namely:—

"(4A) Records of purchase, of a drug intended for resale either by retail or by whole-sale shall be maintained by the licensee and such record shall include the following particulars,—

- (a) the date of purchase,
- (b) the name and address of the licensee from whom purchased,
- (c) the name of the drug, the quantity and the batch number,
- (d) the name of the manufacturer of the drug.";

(5) for sub-rule (5), the following sub-rule shall be substituted, namely:—

"(5) Record shall be maintained in respect of the sale of a drug specified in Schedule C or Schedule E by whole-sale and such record shall include the following particulars,—

- (a) the date of sale,
- (b) the name and the address of the licensee to whom sold and his sale licence number,
- (c) the name of the drug, the quantity and the batch number,
- (d) the name of the manufacturer.

Such record shall be preserved for a period of three years from the date of the sale of the drug.

(6) after sub-rule (5), the following sub-rule shall be inserted, namely:—

"(5A) Subject to the other provisions of these rules, the supply of a drug by wholesale shall be accompanied by a cash or credit memo in which the following particulars shall be entered,—

- (a) the date of supply,
- (b) the name and address of the licensee to whom sold and his licence number,
- (c) the names of the drugs, the quantity and the batch number;" ;
- (d) the names of the manufacturers.

(7) for the Explanation, after item (c) of sub-rule (15), the following Explanation shall be substituted, namely:—

Explanation.—For the purpose of this rule,—

(i) A substance specified in Schedule E means a substance specified in column I of Schedule E and its preparation excluding preparations exempted under columns II or III thereof;

(ii) 'Qualified person' means a person who—

- (a) holds a diploma or degree in pharmacy or pharmaceutical chemistry of an institution approved by the licensing authority, or
- (b) is a Registered Pharmacist under the Pharmacy Act, 1948 or
- (c) has had not less than four years' practical experience of dispensing which is in the opinion of the licensing authority adequate, and has been approved by that authority as a qualified person,";

4. In sub-rule (2) of rule 66 of the said rules, for the words "district judge of the district in which the right of appeal accrues or if there is no district judge of that district such judicial officer, as the State Government may appoint in this behalf", the following words shall be substituted:—

"State Government".

5. In rule 97 of the said rules,

(i) in sub-rule (1), after item (c), the following items shall be inserted, namely:—

"(d) If it contains a substance specified in column I of Schedule E in a strength below that specified in column II thereof, be labelled with the words:

"Caution.—It is dangerous to exceed the stated dose".

(e) If it contains a substance specified in Schedule L, it shall be labelled with the words:

'Schedule L Drug'

Warning:—To be sold by a retailer on the prescription of a Registered Medical Practitioner only.",

(2) after sub-rule (4), the following sub-rule shall be inserted, namely:—

"(5) The container of a medicine prepared for treatment of human ailments shall, if the medicine contains industrial methylated spirit, indicate this fact on the label and be labelled with the words:—

'For External Use only'.",

6. In rule 101 of the said rules for sub-rule (3), the following sub-rule shall be substituted, namely:—

"3 If the preparation contains a substance specified in Schedule E, the quantity shall be stated—

(a) in the case of a liquid, in terms of milligrams or millilitres per 30 millilitres,

(b) in the case of a solid, in terms of milligrams or millilitres per 30 grams:

Provided that when two or more pills, wafers, tablets, powders, capsules or the like are packed in the same container, the quantity shall be stated in terms of the quantity present in each pill, wafer, tablet, powder, capsule or other unit."

7. After sub-rule (2) of rule 106 of the said rules, the following explanation shall be inserted, namely:—

"Explanation.—For the purpose of the rules in this Part, a substance specified in Schedule E shall mean a substance specified in Column I thereof and its preparations excluding the substance and its preparations exempted under columns II or III thereof";

8. In Schedule A, of the said rules,

(1) In Forms 20 and 21-A, after condition 3, the following condition shall be inserted, namely:—

"(4) The licensee shall sell drugs purchased under cash or credit memo and only from a duly licensed dealer or a duly licensed manufacturer and every sale made by him shall be accompanied by a cash or credit memo. Copies of such memos shall be maintained as records of sales.";

(2) in Form 20-A, after condition 2, the following condition shall be inserted, namely:—

"(3) The licensee shall sell drugs purchased under cash or credit memo and only from a duly licensed dealer or a duly licensed manufacturer and every sale made by him shall be accompanied by a cash or credit memo. Copies of such memos shall be maintained as records of sales.";

(3) in Form 20-B, for condition 3, the following condition shall be substituted, namely:—

"3. (i) The licensee shall sell drugs purchased under a cash or credit memo and only from a duly licensed dealer or a duly licensed manufacturer."

(4) in Form 21, after condition 4, the following condition shall be inserted, namely—

"5 The licensee shall sell drugs purchased under cash or credit memo and only from a duly licensed dealer or a duly licensed manufacturer and every sale made by him shall be accompanied by a cash/credit memo. Copies of such memos shall be maintained as records of sales";

(ii) No sale of any drug shall be made to a person not holding the requisite licence to sell stock or exhibit for sale or distribute the drug

Provided that this condition shall not apply to the sale of any drug to—

(a) an officer or authority purchasing on behalf of Government, or
(b) a hospital, medical, educational or research institution or a registered medical practitioner for the purpose of supply to his patients";

(5) in Form 21-B, for condition 4, the following condition shall be substituted, namely—

"4 (i) The licensee shall sell drugs purchased under a cash or credit memo and only from a duly licensed dealer or a duly licensed manufacturer.

(ii) No sale of any drug shall be made for purposes of resale to a person not holding the requisite licence to sell stock or exhibit for sale or distribute the drugs.

Provided that this condition shall not apply to the sale of any drug to—

(a) an officer or authority purchasing on behalf of Government, or
(b) a hospital, medical, educational or research institution or a registered medical practitioner for the purpose of supply to his patients";

9. For Schedule E of the said rules the following Schedule shall be substituted, namely—

SCHEDULE

List of Poisonous Substances

(See Rules 65 and 97)

Name of poisonous substance	Percentage of poison content below which the substance or its preparation is exempted from the provisions of Rule 65(4)	Substance or its preparation exempted from all provisions applicable to Schedule E
I	2	3
Acetanilide; Alkyl acetanilides		
*Acetylmethadol; its salts		
Aconite, roots of		
Alkaloids, the following their salts, their esters, salts of their esters, their quaternary compounds		
*Acetylhydrocodone		
*Acetylhydrocodoneinone		
Aconite, alkaloids of		
Apomorphine	0.02	..
Atropine	0.20	..
Belladonna, alkaloids of	0.15	..
Berberine	0.15 calculated as hyso- soyamine.	..
*Benzylmorphine	0.02	..
*Benzoylmorphine	..	..
Brucine	..	..
Calabar beans, alkaloids of	0.20	..
*Coca, alkaloids of	..	..

I

2

3

*Cocaine	0·10	..
*Codeine	0·10	..
*Colchicum	1·50	..
Coniine	0·10	..
Cotarnine	0·20	..
Curare, alkaloids of; curare bases . . . . .	..	..
*Diacetylmorphine . . . . .	..	..
*Dihydrocodeine . . . . .	..	..
*Dihydrocodeinone . . . . .	..	..
*Dihydrohydroxycodeinone . . . . .	..	..
*Dihydromorphone . . . . .	..	..
*Dihydroxydihydromorphinone . . . . .	..	..
*Ecgotine	0·10	..
Emetine	1·00	..

Extracts and tinctures of Ipecacuanha and substances containing less than 0·05 per cent of emetine.

Ephedra, alkaloids of	1·00	..
Ergot, alkaloids of . . . . .	..	..
*Ethylmorphine	0·20	..
Gelsemium, alkaloids of	0·10	..
Homatropine	0·15	..
Hyoscine	0·15	..
Hyoscyamine	0·15	..
Jaborandi, alkaloids of	0·50	..
Lobelia, alkaloids of	0·50	..

Cigarettes and smoking mixtures containing alkaloids of lobelia.

Morphine	0·20	calculated as anhydrous morphine.	..
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Nicotine	0·20
Papaverine	1·00
Pomegranate, alkaloids of	0·50
Quebracho, alkaloids of, other than alkaloids of red quebracho

Rauvolfia, alkaloids of . . . . .	..	..	..
Sabadilla, alkaloids of . . . . .	..	..	..
Solanaceous alkaloids not otherwise specified in this list	0·15	calculated as hyoscyamine.	..

Cigarettes and smoking mixture containing stramonium.

Stavesacre, alkaloids of	0·20	..	..
Strychnine	0·20	..	..
*Thebaine . . . . .	..	..	..
Tropacocaine (Benzoyl)pseudotropine) . . . . .	..	..	..
Veratrum, alkaloids of	1·00	..	..
Yohimba, alkaloids of . . . . .	..	..	..
Allylisopropylacetylurea . . . . .	..	..	..
*N-Allylmorphine and any other pentavalent morphine derivative . . . . .	..	..	..

*Allylprodine; its salts . . . . .	..	..	..
Alpha-acetyl-methadol; its salts . . . . .	..	..	..
*Alpha-methadol; its salts . . . . .	..	..	..
*Alpha prodine; its salts . . . . .	..	..	..
Amidopyrine; its salts; amidopyrine sulphonates) their derivative their salts . . . . .	..	..	..

I

2

3

Amino-alcohols esterified with benzoic acid, phenylacetic acid phenylpropionic acid or the derivatives of these acids; their salts 10.00 of esterified amino alcohols.

smelling salts.

Aminopterin

Ammonia

Amylnitrite

*Anileridine) its salts

Anthihistamine substances, the following their salts, their derivatives, and salts of their derivatives :—

Antazoline

Bromazine

Chlorcyclizine

Diphenhydramine

Diphenylpyraline

3-Di-N-butylaminoethyl-4, 5,6,-tri-hydroxyphthalide

Isothipendyl (N-Dimethylamino-isopropylthiophenylpyridylamine)

Phenindamine

Pheniramine

Promethazine

Prophenpyridamine

Theanalidine 1-Methyl-(4-amino-N-phenyl-N' (2-thieny) piperidine) tartrate

Substances being tetra-substituted N-derivatives of ethylene diamine or propylene diamine

Antimony, Oxides of antimony; sulphides of antimony; organic compounds of antimony

Equivalent of 1.00 per cent of antimony trioxide.

Apiol

Arsenic; halides or arsenic; oxides of arsenic, arsenates, arsenites, organic compounds of arsenic

Equivalent of 0.01 per cent of arsenic trioxide.

Azapetine; its salts

Barbituric acid, its salts; (derivatives of barbituric acid, their salts, compounds of barbituric acid, its salts, its derivatives, their salts with any other substance)

Barium chloride

Barium Sulphide

Benactyzine its salts

*Benzethidine; its salts

*Beta-acetylmethadol; its salts

Beta-aminopropylbenzene (Amphetamine); its salts; its N-alkyl derivatives, their salts beta-amino-sopropylbenzene) its salts; its -N-alkyl derivatives, their salts

*Beta-meprodine; its salts

*Beta-methadol; its salts

*Beta-prodine; its salts

Bretylium tosylate

Busulphan (1:4 dimethanesulphonoxobutane) ; its salts

Butyl chloral hydrate

Substances intended for topical or external use.

1

2

3

*Cannabis (Indian Hemp); Cannabis resin; galenical preparations of of Cannabis, extracts and tinctures of Cannabis; Cannabin tanne—		
Cantheridine; cantheridates	0 or of Cantheridine	..
Captodiame ; its salts . . . . .		..
Carbachol . . . . .		..
*4-Carbmethoxy-1, 3-dimethyl-4-phenyl hexamethyleneimine; its salts . . . . .		..
*4-Carbmethoxy-1, 2-dimethyl-4-phenyl hexamethyleneimine; its salts . . . . .		..
Carbutamide . . . . .		..
Chloral formamide . . . . .		..
Chloral hydrate . . . . .		..
Chlorambucil; its salts . . . . .		..
Chlorisondamine chloride . . . . .		..
Chloroform		Substance containing less than 10 per cent chloroform.
Chlorpromazine; its salts . . . . .		..
Chlorproparamide; its salts . . . . .		..
Chrysophanic acid . . . . .		..
*Clonitazene (2-(P-Chlorobenzyl-1-die-thylaminoethyl-5-nitrobenzimidazole) its salts		Substances containing 50 per cent of creosote from wood.
Creosote from wood		Substances containing 50 per cent of creosote from wood.
Croton, oil of . . . . .		..
Cyclophosphamide; its salts . . . . .		..
Datura, herb and seeds, preparations of datura	0.15 calculated as hyoscyamine	..
*Desomorphine; its salts	1.50	..
Dextromethorphan; its salts	1.50	..
*Dextromoramide; its salts . . . . .		..
Dextrorphan; its salts . . . . .		..
*Diacetyl-N-allylmorphine; its salts . . . . .		..
Diaminodiphenyl Sulphone; its salts & derivatives . . . . .		..
Diethylcarbamazine; its salts . . . . .		..
Digitalins, glycosides of ; other active principles of digitalis.	1 units of activity as defined in the Indian Pharmacopoeia in two grams of the substances.	..
Di-isopropylfluorophosphonate . . . . .		..
*Dimenaxadol; its salts . . . . .		..
*Dimethylthiambutene; its salts . . . . .		..
Dinitrocresols; their compounds with a metal of a base . . . . .		..
Dinitronaphthols; dinitrophenols, dinitrothymols . . . . .		..
*Dioxaphetyl butyrate; its salts . . . . .		..
*Diphenoxylate; its salts . . . . .		..
*Diphenylmorpholinohexanone; its salts . . . . .		..
*Dipipanone; its salts . . . . .		..
Disodium stilboestrol diphosphate . . . . .		..
Disulfiram . . . . .		..
Dithiazanine iodide . . . . .		..
Dithienylallylamine; dithienylalkylallylamines . . . . .		..

I	2	3
Elaterin		
Epinephrine; its salts	..	..
Ergot (the sclerotia of any species of Claviceps); extracts of ergot; tinctures of ergot	..	..
Erythrityltetranitrate	..	..
*Ethylmethylthiambutene; its salts	..	..
*Etonitazene; its salts	..	..
*Etoxeridine, its salts	..	..
Formaldehyde	..	Substances containing less than 5 per cent of formaldehyde.
Formic acid		
Furaltadone, its salts	..	..
*Furethidine, its salts	..	..
Gallamine; its salts; its quaternary compounds	..	..
Glutethimide; its salts	..	..
Glyceryl trinitrate (Nitroglycerine)—	..	..
Guaniidines, the following :		
Polymethylene diguanidine; di-para-anisyl phenethylguanidine	..	..
Hexocyclium methylsulphate		..
Hydantoin, its salts; its derivatives; their salts	..	..
Hydrochloric acid	..	Substances containing less than nine per cent of hydrochloric acid.
Hydrocyanic acid	0.15	
*Hydromorphone; its salts	..	..
*2-Hydroxy-5, 9-dimethyl-2-(2-phenyl-ethyl)-6,7-benzomorphane; its salts	..	..
*Hydroxypethidine (Bemidone); its salts	..	..
Hydroxyzine; its salts	..	..
Imipramine; its salts	..	..
*Isopropylester of 1-methyl-4-phenyl-4-carboxylic acid (Propridine); its salts.	..	..
*Ketobemidone; its salts	..	..
Laudaxium; its salts		
Lead acetates; compounds of lead with acid from fixed oils	..	..
Levarterenol; its salts	..	..
*Levo-3-hydroxyl-N-propargylmorphinan; its salts	..	..
*Levomethorphan; its salts	..	..
*Levoramamide; its salts	..	..
*Levephenacylmorphan; its salts	..	..
Levorphanol, its salts	..	..
Mannomustine; its salts	..	..
Mannyl hexanitrate	..	..
Meprobamate	..	..
6-Mercaptopurine; its salts	..	..
Mercury		
Mercuric chloride; mercuric ammonium-chloride	1.00 of mercuric chloride	..
Mercuric iodide	2.00	
Mercuric nitrate	Equivalent of 300 per cent of Mercury (Hg.)	..

I

2

3

Mercury, Organic compounds of	Equivalent of 0·20 per cent of Mercury (Hg.)	..
Mercury, Oxides of
Mercury, Oxycyanides of
Mercuric potassium iodide	Equivalent of 1·00 per cent of Mercury (Hg.)	..
*Metazocine; its salts
Metformim; its salts
*Methadone (Amidone); its salts
Methanol
Methotrexate; its salts
*Methyldesorphine; its salts
*Methyl dihydromorphone; its salts
Methyl phenidate; its salts
*1-Methyl-4-phenylpiperidine-4-carboxylic acid; esters of; their salts
Methyl pentynol; its esters and other derivatives
*Metapon (Methyldihydromorphinone); its salts
*N-(2-(N-Methyl-phenethylamino) propyl) propionanilide; its salts
*Morpheridine; its salts
*Morphine-N-Oxide; its derivatives; their salts
Mustine; its salts
Nalorphine; its salts
Nialamide; its salts
Nitric acid	..	Substances containing less than nine per cent of nitric acid.
Nitrobenzene
Nitrophenols, ortho, meta or para
*Norcodeine; its salts
*Norlevorphanol; its salts
*Normethadone; its salts
Normorphine; its salts
Nux vomica; seeds of; preparation of nux vomica	0·20 calculated as styphrine	..
*Opium	0·20 calculated as anhydrous morphine	..
Orthocaine; its salts
Ouabain
Oxazolidine; its derivatives
Oxycinchoninic acid, derivatives of ; their salts; their esters
*Oxymorphone ; its salts
Para-aminobenzene sulphonamide ; its salts; derivatives of para amino benzene sulphonamide having any of the hydrogen atoms of the para-amino group of the sulphonamide group substituted by another radical ; their salts
Para-aminobenzoic acid ; its salts; its esters ; their salts
Pecazine ; its salts
Pempidine ; its salts
*Phenampromide ; its salts
Phenformin ; its salts

*Drugs coming within the purview of the Dangerous Drugs Act, 1930.

Phenols (any member of the series of phenols of which the first member is phenol and of which the molecular composition varies from member to member by one atom of carbon and two atoms of hydrogen) ; halogen derivatives of phenols ; compounds of phenol with a metal

(i) Substances containing less than one per cent of Phenol.

(ii) Nasal sprays, Mouth washes, Pastilles, lozenges, capsules pessaries, ointments, or suppositories containing less than 2.50 per cent of phenol.

*Phenomorphan ; its salts . . . . .	..
*Phenoperidine ; its salts . . . . .	..
Phenothiazine ; its derivatives and salts of its derivatives not otherwise specified in this list . . . . .	..
Phenylacetylurea . . . . .	..
Phenylourazole ; its salts; its derivatives; their salts . . . . .	..
Phenylcinchoninic acid; its salts; its esters ; the salts of its esters . . . . .	..
Phenyl-(P-tolymethoxy)-ethyldimethylamine ; its salts . . . . .	..
*Pholcodine ; its salts	1.50
Phosphorus yellow . . . . .	..
Picric acid . . . . .	..

Substances containing less than nine per cent of picric acid.

Picrotoxin . . . . .	..
*Piminodine ; its salts . . . . .	..
3-Piperidino-1-phenyl bicyclophthalylpropanol . . . . .	..
Polymethylene-bis-trimethylammonium salts . . . . .	..

Substances containing less than 1 per cent of Potassium fluoride.

Potassium hydroxide
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Substances containing less than twelve per cent of potassium hydroxide.

*Propheptazine ; its salts . . . . .	..
*Propoxyphene ; its salts . . . . .	..
Promazine ; its salts . . . . .	..
*Racemethorphan ; its salts . . . . .	..

Substances containing less than 1 per cent of Potassium fluoride.

Racemoramide ; its salts . . . . .	..
*Racemorphan ; its salts . . . . .	..
Reserpine ; its salts ; its derivatives; their salts . . . . .	..

Substances containing less than twelve per cent of potassium hydroxide.

Salicylcinchoninic acid ; its salts; its esters ; the salts of its esters . . . . .	..
Savin, oil of . . . . .	..

I	2	3
Sodium fluoride	Substances containing less than 1 per cent of sodium fluoride.	
Sodium hydroxide		Substances containing less than twelve per cent of sodium hydroxide.
Sodium nitrite		
Strophanthus, glycosides of strophanthus		
Sulphonat; alkyl sulphonals		
Sulphuric acid		Substances containing less than nine per cent of Sulphuric.
Thalidomide ; its salts		
Thallium, salts of		
Thiocarbanilide		
Thiopropazate ; its salts		
Thyroid gland, the active principles of; their salts		
Tolbutamide		
Tribromethyl alcohol		
Tri (2-chlorethyl) amine; its salts		
Triethanolamine ; its salts		
Triethylenethiophosphoramide		
*Trimeperidine; its salts		
Trimeprazine ; its salts		
Tropine diphenylmethyl esters; their salts		
Zinc phosphide		

NOTE :—Preparations containing the above substances are also covered by this Schedule unless otherwise specified.

*Drugs coming within the purview of the Dangerous Drugs Act, 1930.

10. In Schedule F of the said rules in Part XII for paragraph (E), the following paragraph shall be substituted, namely:—

(E) Standards for preparations of Liver Extract for oral use

1. **Desiccated Liver; (Desiccated Liver Substance).**—Desiccated Liver is the dried, defatted or undefatted powder prepared from mammalian livers suitable for use as food by man. Each gram of Desiccated Liver contains the equivalent of not less than 2 meg. of cyanocobalamin; it contains not less than 10 per cent of nitrogen.

Desiccated Liver is prepared from sound, clean and entire glands that are freed from external connective tissue and external fat, and dried in a vacuum at a temperature not exceeding 60°. It is free from diluents or preservatives. One part of Desiccated Liver is obtained from approximately 4 parts, by weight, of fresh glands.

2. **Liver Concentrate.**—Liver Concentrate is the dried, unfractionated product resulting from the water or acidified water extract derived from mammalian livers suitable for use as food by man. Each gram of liver concentrate is derived from not less than 15 grams of fresh liver and contains not less than the equivalent of 7.5 meg. of cyanocobalamin; it contains not less than 9 per cent of nitrogen.

Liver Concentrate is prepared from finely minced, fresh or frozen livers by extraction with water, with or without the addition of acid. The protein is coagulated by heat, the insoluble material removed, and the solution is concentrated and dried in vacuum or a spray dryer.

Liver Concentrate shall not be subjected to any fractionation process, such as those involving solvents or absorbents, and it does not contain added diluents other than an amount, not to exceed 5 per cent of a harmless substance to prevent

caking. It may contain 0.1 per cent of benzoic acid or a suitable concentration of other harmless preservative.

Liver Concentrate may also be used in the form of a paste with a solid content not less than 65 per cent W/W, but the labelling should be on dry basis, the specification being the same as given above.

3. Liver Fraction 1 (Soluble Liver Fraction).—Liver Fraction 1 is the product in paste form, containing that portion of liver concentrate soluble in 70 per cent alcohol, and free from diluents. Each gram of Liver Fraction 1 is derived from not less than 25 grams of fresh liver and contains the equivalent of not less than 6 mcg. of cyanocobalamin; it contains not less than 6 per cent of nitrogen. It may contain 0.1 per cent of benzoic acid or a suitable concentration of other harmless preservative.

4. Liver Fraction 2. (Insoluble Liver Fraction).—Liver Fraction 2 is a product containing the portion of liver concentrate insoluble in 70 per cent alcohol. It does not contain added diluents or preservatives other than an amount not to exceed 5 per cent, of a harmless substance to prevent caking. Each gram of Liver Fraction 2 is derived from not less than 25 grams of fresh liver; it contains not less than 6 per cent of nitrogen.

5. Proteolysed Liver.—Proteolysed Liver is a mixture of the products of digestion of edible mammalian livers, and may be prepared by digesting mammalian liver with a proteolytic enzyme at a temperature of 50°—60° and a pH of 5 to 6. The product is heated at 100° for 5 minutes to inactivate the enzyme, filtered, concentrated under reduced pressure, and evaporated to dryness in vacuum or a spray dryer.

It may contain up to 5 per cent of harmless substance added to prevent caking.

Each gram of proteolysed Liver is derived from not less than 6 grams of fresh liver and contains the equivalent of not less than 2 mcg. of cyanocobalamin; if contains not less than 11 per cent of nitrogen.

Amino-acid content.—This test should be the same as in the Indian Pharmacopoeia, but substituting the words "decolourised with activated charcoal and adjusted to pH 7" for the words "adjusted to pH 7." This change is suggested because Proteolysed liver solution is dark-brown in colour and decolourisation helps in obtaining a clear end-point in the formal titration;

Proteolysed Liver may also be used in the form of a paste with a solid content not less than 65 per cent W/W but the labelling should be on dry basis, the specifications being the same as given. It may contain 0.1 per cent of benzoic acid or a suitable concentration of other harmless preservative.

11. For Schedule G, of the said rules, the following Schedule shall be substituted, namely:—

"SCHEDULE G

(See Rule 97)

- Aminopterin.
- Carbutamide.
- Chlorpropamide; its salts.
- Hydantion; its salts; its derivatives; their salts.
- Insulin.
- Metformin; its salts.
- Phenformin; its salts.
- Thyroid Gland, active principles of: their salts;
- Tolbutamide.

NOTE.—Preparations containing the above substances are also covered by this Schedule.”;

12. For Schedule H of the said rules the following schedule shall be substituted, namely:—

"SCHEDULE H

(See Rules 65 and 97)

- Allyl isopropylacetylurea.
- Amidopyrine; its salts; amidopyrine sulphonates; their derivatives; their salts.

Antihistamine substances, the following; their salts, their derivatives, salts of their derivatives:—

Antazoline.

Bromazine.

Chlorcyclizine.

Diphenhydramine.

Diphenylpyraline.

3-Di-N-butyl-aminoethyl-4, 5, 6-trihydroxyphthalide Isothipendyl (N-dimethylaminoisopropyl thiophenyl-pyridylamine).

Phenindamine.

Pheniramine.

Promethazine.

Prophenpyridamine.

Theralidine (1-Methyl-4-amino-N-phenyl-N'-(2-thenyl)-piperidine) tartrate

Substances being tetre-substituted N-derivatives of ethylene diamine or propylene diamine.

Arsenic, organic compounds of, for injection.

Azepetine; its salts.

Barbituric acid; its salts.

Barbituric acid; its salts; derivatives of barbituric acid, their salts; compounds of barbituric acid, its salts, its derivatives, their salts, with any other substance.

Benactyzine; its salts.

Beta-aminopropylbenzene (Amphetamine); its salts; its N-alkyl derivatives; their salts; beta-amino-isopropyl-benzene, its salts; its N-alkyl derivatives; their salts, except when present in appliances for inhalation.

Bretylium tosylate.

Busulphan (1:4 Dimethanesulphonoxypybutane); its salts.

Captopidame; its salts.

Chlorambucil; its salts.

Chlorisondamine chloride.

Chlorpromazine; its salts.

Cyclophosphamide; its salts.

Diaminodiphenylsulphone; its salts and derivatives.

Di-isopropylfluorophosphonate.

Dinitrocresols, their compounds with a metal or a base except preparations in use in agriculture or horticulture.

Dinitronaphthols; dinitrophenols; dinitrothymols.

Disodium stilboestrol diphosphate.

Disulfiram.

Dithiazanine iodide,

Dithienylallylamine; dithienylalkylallylamines; their salts.

Drugs coming within the purview of the Dangerous Drugs Act, 1930, and marked with an asterisk (*) in Schedule E to the Drugs Rules, 1945—

Epinephrine; its salts.

Ergot, alkaloids of; their salts; their derivatives; the salts of their derivatives.

Furaltadone.

Gallamine; its salts; its quaternary compounds.

Clutethimide; its salts.

Hexacyclium methyl sulphate.

Hydroxyzine; its salts.

Imipramine its salts.

Levarterenol; its salts.

Mannomustine; its salts.

Meprobamate.
 6-Mercaptopurine; its salts.
 Methotrexate; its salts.
 Methylpentynol; its esters and other derivatives.
 Methyl phenidate; its salts.
 Mustine; its salts.
 Nialamide; its salts.
 Oxazolidine; its salts.
 Para-amino-benzene sulphonamide; its salts; derivatives of Para-amino-benzene sulphonamide having any of the hydrogen atoms of the para-amino group or the sulphonamide group substituted by another radical excluding carbutamide; their salts.
 Pecazine; its salts.
 Pempidine; its salts.
 Phenothiazine, its derivatives and salts of its derivatives not otherwise specified in this Schedule.
 Phenylacetylurea.
 Phenyloutazole; its salts; its derivatives, their salts.
 Phenylcinchoninic acid; its salts; its esters; the salts of its esters.
 2-(Phenyl-o-tolymethoxy)-ethyl dimethylamine; its salts.
 3-piperidine-1-phenyl bicycloheptenyl propanol.
 Polymethylene-bis-trimethylammonium salts.
 Promazine; its salts.
 Rauvolfia, alkaloids of; their salts; their esters; the salts of ester.
 Reserpine; its salts; its derivatives, their salts.
 Salicylcinchoninic acid; its salts; its esters; the salts of its esters.
 Sulphonals; alkyl sulphonals.
 Thalidomide; its salts.
 Thiocarbanilide.
 Thiopropazate; its salts.
 Tri-(2-chloreethyl) amine; its salts.
 Triethanomelamine; its salts.
 Triethylenethiophosphoramide.
 Trimeprazine; its salts.

NOTE.—Preparations containing the above substances, excluding those intended for topical or external use are also covered by this Schedule, unless otherwise specified.)"

13. For Schedule I of the said rules the following Schedule shall be substituted, namely:—

"SCHEDULE I"

[See Rule 101(4)]

Particulars as to proportion of poison in certain cases

Name of Poison	Particulars
Alkaloids—	
Aconite, alkaloids of	The proportion of any one alkaloids of aconite that the preparation would be calculated to contain on the assumption that all the alkaloids of aconite in the preparation were that alkaloid.

Name of the poison	Particulars
Belladonna, alkaloids of Calabar beans, alkaloids of Coca, alkaloids of Colchicum, alkaloids of Ephedra, alkaloids of Ergot, alkaloids of Gelsemium, alkaloids of Jaborandi, alkaloids of Lobelia, alkaloids of Pomegranate, alkaloids of Quebracho, alkaloids of, other than the alkaloids of red quebracho Sabadilla, alkaloids of Solanaceous alkaloids not otherwise included in Column 1 of Schedule E. Stavesacre, alkaloids of Veratrum, alkaloids of Yohimbe, alkaloids of	The same as above, with the substitution for the reference to aconite of a reference to belladonna, calabar bean or such other alkaloids of the said poisons as the case may require.
Antimonial poisons	The proportion of antimony trioxide (Sb_2O_3) or antimony pentoxide (Sb_2O_5) that the preparation would be calculated to contain on the assumption that the antimony (Sb) in the poison had been wholly converted into antimony trioxide or antimony pentoxide as the case may be.
Arsenical poisons	The proportion of arsenic trioxide (As_2O_3) or arsenic pentoxide (As_2O_5) that the preparation would be calculated to contain on the assumption that the arsenic (As) in the poison has been wholly converted into arsenic trioxide or arsenic pentoxide as the case may be.
Barium, salts of	The proportion of one particular barium salts which the preparation would be calculated to contain on the assumption that the barium (Ba) in the poison has been wholly converted into that salt.
Digitalis, glycosides of; other active principles of digitalis.	The number of units of activity as defined in the Indian Pharmacopoeia contained in a specified quantity of the preparation.
Hydrocyanic acid; cyanides; double cyanides of mercury and zinc.	The proportion of hydrocyanic acid (HCN) that the preparation would be calculated to contain on the assumption that the cyanides in the poison had been wholly converted into hydrocyanic acid.
Insulin	The number of units of activity as defined in the Indian Pharmacopoeia contained in a specified quantity of the preparation.
Lead, compounds of, with acids from fixed oils.	The proportion of lead oxide (PbO) that the preparation would be calculated to contain on the assumption that the lead in the poison had been wholly converted into lead oxide.
Mercury, organic compounds of	The proportion of organically combined mercury (Hg) contained in the preparation.
Nux Vomica	The proportion of Strychine contained in the preparation.
Opium	The proportion of morphine contained in the preparation.
Phenols	The proportion of phenols (added together) contained in the preparation.
Compounds of phenol with a metal	The proportion of phenols (added together) that the preparation would be calculated to contain on the assumption that the compound of phenols with a metal had been wholly converted into the corresponding phenols.

Name of the poison	Particulars.
Pituitary gland, the active principles of	Either— (a) the number of units of activity as defined in the Indian Pharmacopoeia contained in a specified quantity of the preparation; or (b) the proportion of pituitary gland or of anterior or posterior lobe of the gland as the case may be contained in the preparation; or (c) the amount of pituitary gland, or of anterior or of posterior lobe of the gland as the case may be from which a specified quantity of the preparation was obtained, together with an indication whether the amount relates to fresh or to dried gland substance.
Potassium hydroxide	The proportion of potassium monoxide (K_2O) which the preparation would be calculated to contain on the assumption that the potassium hydroxide in the preparation had been wholly converted into potassium monoxide.
Sodium hydroxide	The proportion of sodium monoxide (Na_2O) which the preparation would be calculated to contain on the assumption that the sodium hydroxide in the preparation had been wholly converted into sodium monoxide.
Strophanthus, glycosides of	The amount of Standard Tincture of Strophanthus as defined in the British Pharmacopoeia 1948, which possesses the same activity as a specified quantity of the preparation when assayed by the method described in the said Pharmacopoeia.
Suprarenal gland, the active principles of, their salts.	Either— (a) The proportion of suprarenal gland of the cortex or of the medulla of the gland, as the case may be contained in the preparation; or (b) the amount of suprarenal gland or of the cortex or of the medulla of the gland, as the case may be, from which a specified quantity of the preparation was obtained, together with an indication whether the amount relates to fresh or dried gland substance.
Thyroid gland, the active principles of.	Either— (a) the proportion of thyroid gland contained in the preparation; or (b) the amount of thyroid gland from which a specified quantity of the preparation was obtained together with an indication whether the amount relates to fresh or dried gland.

14. for Schedule L, of the said rules, the following Schedule shall be substituted, namely:—

"SCHEDULE L

[See Rules 65 (9) and 97]

Adrenocorticotrophic hormone (ACTH).

Androgenic, oestrogenic, and progestational substances, the following:—

 Benzoestrol.

 Derivatives of stilbene, dibenyl or naphthalene, with oestrogenic activity; their esters.

Steriod compounds with androgenic or oestrogenic or progestational activity; their esters.

Antibiotics, specified below their salts and derivatives; and salts of their derivatives:—

- Bacitracin.
- Carbomycin.
- Chloramphenicol.
- Chlortetracycline.
- Dihydrostreptomycin.
- Erythromycin.
- Framycetin.
- Gramicidin.
- Griseofulvin.
- Neomycin.
- Novobiocin.
- Nystatin.
- Oleandomycin.
- Oxytetracycline.
- Penicillin.
- Polymyxin.
- Spiramycin.
- Streptomycin.
- Tetracycline.
- Tyrothricin.
- Vancomycin.
- Viomycin.
- Bendrofluazide.
- Benzthiazide.
- Chlorthiazide.

Cortisone, hydrocortisone, prednisone, prednisolone, triamcinalone and dexamethasone; their esters; their derivatives and esters of their derivatives.

Hydrochlorthiazide.

Hydroflumethiazide.

Iron preparations for parenteral use.

Isonicotinic acid hydrazide and other hydrazine derivatives of isonicotinic acid; their derivatives; their salts.

Oxytocin, prepared from the pituitary body or by synthesis.

Para-aminosalicylic acid; its salts; its derivatives; their salts.

Pituitary gland, the active principles of, not otherwise specified in this Schedule and their salts.

Vasopressin, prepared from the pituitary body or by synthesis.

NOTE.—Preparations containing the above substances excluding those intended for topical, or external use, are also covered by this Schedule.”

[No. F. 1-63/61-D.]

S.O. 2349.—The following resolution passed by the Pharmacy Council of India at its meeting held at Lucknow on 5th December, 1961, in pursuance of sub-section (1) and (2) of Section 12 of the Pharmacy Act, 1948 (8 of 1948), is published, as required by section 15 of the said Act, namely:—

“The Pharmacy Council of India approves under section 12(1) of the Pharmacy Act, 1948, for a further period of one year, the Diploma course in Pharmacy conducted by the Government of Madras at the Madras Medical College, Madras. The Council also approves the

Diploma in Pharmacy Examination under section 12(2) of the Pharmacy Act, for the purpose of registration as a pharmacist".

DEVINDER K. JAIN,
Assistant Secretary,
Pharmacy Council of India.

Countersigned,

[No. F. 7-13/62-D.]

A. C. RAY, Under Secy.

MINISTRY OF LABOUR & EMPLOYMENT

New Delhi, the 18th July 1962

S.O. 2350.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the National Industrial Tribunal, Bombay, in the matter of an application under section 33A of the said Act from a workman of the Associated Cement Company Limited, Khalari Cement Works, P.O. Khalari, District Palamau, Bihar.

BEFORE THE NATIONAL INDUSTRIAL TRIBUNAL, BOMBAY

APPLICATION NO. 1 (NT) OF 1962

IN REFERENCE NO. 1 (NT) OF 1961

Kartick Ch. Bannerjee, C/o Shri Tarak Nath Bannerjee, Stenographer to Accountant General, Bihar, P.O. Hinoo, Ranchi—Complainant

Vs.

The Manager M/s. Associated Cement Cos. Ltd., Khalari Cement Works, P.O. Khalari, District Palamau Bihar—Opposite Party.

PRESENT:

Shri Salim M. Merchant, Presiding Officer

For the Parties:—

Complainant In person.

Shri Ranga Rao, Personnel Officer, Associated Cement Cos. Ltd., with Shri R. L. Kanooor, Personnel Officer, Khalari Cement Works, for the Opposite Party.

STATE: Bihar.

INDUSTRY: Cement.

Bombay: Dated 4th July, 1962

AWARD

This is a complaint purporting to be under section 33A of the Industrial Disputes Act, 1947 (Act XIV of 1947) and is directed against the dismissal with effect from 16th December 1961 of the Complainant Shri Kartick Ch. Bannerjee, who was employed as a Stenographer in the Khalari Cement Works of the Associated Cement Companies Ltd., (hereinafter referred to as the Company).

2. It is admitted that the complainant was, on the date of his dismissal, a workman concerned in the industrial dispute between the Company and its workmen, being Reference No. 1(NT) of 1961, which has been referred to this National Industrial Tribunal.

3. The complainant was charged with the misconduct of having on 23rd August 1961 misbehaved with i.e. molested, the wife of a co-employee who was his neighbour in the Company's quarters at Khalari Cement Works. He was served with a charge sheet charging him with this misconduct and after he had tendered his explanation, which was found unsatisfactory, an enquiry was held on the charge sheet, at which 8 employees of the Company gave evidence in support of the charge. The complainant was allowed to and did cross-examine these prosecution witnesses. He was also asked to examine witnesses in his own defence, but he examined none. He made a lengthly statement at the enquiry. The Enquiry Committee was satisfied that the misconduct with which he was charged was established and accordingly the Manager of the Cement Works by letter dated

15th December 1961, informed the complainant that considering the gravity of the misconduct it had been decided to dismiss him from service with effect from 16th December 1961. He was on the same day sent his dues, including one month's pay in time of notice, evidently as required by Section 33(2)(b) of the Industrial Disputes Act, 1947, by money order.

4. On 15th December 1961, the Manager of the Associated Cement Cos. Ltd.'s Khalari Cement Works, made an application under Section 33(2)(b) of the Industrial Disputes Act, 1947 (Act XIV of 1947) to this Tribunal at Bombay, for approval of the action of the Company in dismissing the complainant. This application reached this Tribunal's office at Bombay on 21st December 1961 and has been registered as Application No. 18(NT) of 1961.

5. Shri Rang Rao, Personnel Officer, of the Company has urged a preliminary objection against the maintainability of this complaint and his contention is that this complaint is not maintainable as there has been no breach of Section 33 of the Act by the opposite party, in as much the Company had, on 15th December 1961, before the dismissal of the complainant took effect, fulfilled the conditions prescribed by Section 33(2)(b) viz., (1) paid to the complainant one month's wages, and (2) made an application to this Tribunal for approval of its action in dismissing the complainant from service.

6. This contention has been stated by the Company in its written statement in reply to this complaint and was pointed out by Shri Ranga Rao, at the first hearing of this complaint at Dhanbad on 5th March 1962, when the complainant was present and was argued by him at the hearing on 16th April 1962, when he was not present. The complainant had addressed a letter dated 14th April 1962 from Purulia to the Tribunal stating that he would not be able to attend the hearing on 16th April 1962 when this complaint and the Company's Application No. 13 (NT) of 1961 had been adjourned for hearing, because he was bed-ridden with Flu. In his letter he did not ask for an adjournment, nor did he enclose a medical certificate to support his statement that he was ill. On the contrary he stated, evidently referring to the hearing that took place on 5th March 1962, that, "everything has been made crystal clear before your Honour, and I hope all details have been placed before the Court." Shri Ranga Rao in opposing an adjournment rightly pointed out that the complainant had not applied for an adjournment and that he had come for the case to Dhanbad all the way from Bombay and Mr. Kapoor the Manager from Khalari. I, therefore, heard Shri Ranga Rao's submissions in support of his legal contention that the complaint was not maintainable.

7. In my opinion, the legal objection of the opposite party is sound and must be upheld. A complaint under section 33A of the Industrial Disputes Act, 1947 can only lie if the employer has contravened the provisions of Section 33 during the pendency of proceedings before a Labour Court, Tribunal or National Tribunal. Therefore as has been now been well established, the very foundation of a complaint under Section 33A, is the contravention of Section 33. "If Section 33 is not contravened, there is no scope for a complaint under section 33A." As I have pointed out earlier the company had, prior to the dismissal of the complainant taking effect from 16th December 1961, on 15th December 1961 paid him (tender by money order would amount to payment) one month's wages and had also on 15th December 1961, addressed an application to this Tribunal for approval of its action in dismissing him from service. All these actions were done simultaneously and it must therefore be held that the Company had fulfilled the requirements of Section 33(2)(b) of the Act. It, therefore, follows that there was no contravention of section 33 of the Act by the management in dismissing the complainant. As there was no contravention of section 33 by the employer, in fact, there is positive evidence that there was compliance with the requirements of Section 33(2)(b), this complaint, which purports to be under Section 33A, must be held to be not maintainable.

8. In the result, I uphold the preliminary legal objection of the opposite party and hold that this complainant is not maintainable. The complaint therefore must stand dismissed on this preliminary objection.

9. No order as to costs.

SALIM M. MERCHANT,
Presiding Officer,
National Industrial Tribunal,
Bombay.

[No. 7/24/60/LRIV.]

New Delhi, the 19th July 1962

S.O. 2351.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Arbitrator in the industrial dispute between the Bombay Port Trust and their workmen.

ARBITRATION NO. 2 OF 1959
In the matter of the disputes
BETWEEN
The Trustees of the Port of Bombay

AND

The Workmen of the Trustees of the Port of Bombay belonging to the establishments of the Bombay Port Trust set out below and represented by the Bombay Port Trust Railwayman's Union.

PRESENT:
Shri F. Jeejeebhoy—Arbitrator

APPEARANCES

For the Trustees of the Port of Bombay.—Shri S. D. Nariman, Legal Adviser for the employers.

For the employees.—Shri Kale and Shri Kotwal.

AWARD

This Award is in continuation of my Award of 10th September 1959 in the above Arbitration. Three issues were referred to my Arbitration and I have already dealt with the one relating to the policy as regards change of recorded dates of birth. I shall now deal with the two remaining issues:

Demand No. 19: That the cashiers working at stations should be given a "risk allowance" of Rs. 10/- per month.

This issue concerns certain commercial clerks of the Bombay Port Trust railway. It is part of their functions to receive moneys from consignees at the station, after which the goods are delivered to the consignees. They are on a monthly salary, but they claim what they call "risk allowance" on the ground that the work of receiving cash and accounting for it is of a responsible character and needs to be compensated by an allowance. They say that such allowance is paid everywhere to cashiers handling money, but this assertion is not correct; for instance, the Indian Railways do not pay their commercial clerks any such allowance for similar work. No doubt such an allowance is given to those clerks who are required to make disbursements to Staff on pay days, but that is quite a different matter, because apart from such pay days, the clerks have their usual clerical work to perform. The allowance paid to such clerks for working on pay day is intended to compensate them for doing work which is not within their normal functions; and it cannot be denied that the work on pay days has to be quick because of the succession of employees receiving payments of their salaries, and if the clerk is not careful he is liable to make mistakes, (mostly in small denominations) for which he is given the "risk allowance" as some sort of compensation. But these considerations do not apply to the commercial clerks whose daily basic duty it is to receive money in accordance with vouchers prepared and to account for the same in accordance with the stations' practice. The Classification and Categorisation Committee for the major ports, after full consideration of the post's duties and responsibilities did not allow any such "risk allowance" to the category in this issue. Upon a consideration of all the factors involved, I hold that the claim involved in this issue fails.

Demand No. 21: That the injustice done to the watchman, Jamalkhan Ismailkhan, be removed either by providing him with a quarter or granting him a house rent allowance in lieu thereof.

This issue relates to a watchman by name Jamalkhan Ismailkhan, who in 1954 was posted at the Yard of the Wadala station. He was entitled to rent-free housing accommodation, or in the alternative to house rent allowance in lieu thereof. He applied for housing accommodation, and according to his turn was offered on 11th October 1954, a quarter bearing No. G-16 at Antop Village. On 23rd October 1954 the watchman wrote to the Bombay Port Trust alleging that the place which he had been allotted was infested with burglars and goondas, and that there was no safety of life or property for him in that area, and he asked

to be given another place. His application was not granted; the allotment made to him was cancelled as he had refused to take it, and he was rendered liable to forfeiture of house rent allowance from 23rd October 1954. It cannot be doubted that this Order was valid under the Rules, and of course there is no question of any *mala fides* on the part of the Bombay Port Trust. But it has been pointed out that two other watchmen, Bazchanan and Banerji Daware, in October 1952 and December 1953 respectively, had been allotted accommodation at Antop Hill, and had appealed to the authorities to give them some other quarters on the ground that they being watchmen there would be no safety for them in that undesirable locality; their applications were accepted and they were given other suitable allotment as such allotments felt vacant. There is no material difference in the pleas of the watchman before me, and of the two watchmen whose cases were favourably considered, but it has been pointed out on behalf of the Bombay Port Trust there has been a continuing process of expansion in the Antop Hill area, the village is now curtailed, and large multi-storey buildings have been put up by the Bombay Port Trust; the hutments have diminished and the law and order situation has been improving all along until it has now become normal.

It is true that we have to go back to 1954, but even so there had been a move by that time to expand the Bombay Port Trust colony and such expansion was taking place. Thus the Order of 1954 in this watchman's case was not necessarily unjust in the changing situation for the better. Today the Bombay Port Trust establishment at that place is an expanded area, with large buildings and modern amenities.

Having regard to the claim made in this issue, I direct that upon Jamalkhan Ismailkhan making an application for an allotment within a month of the publication of this Award, the Bombay Port Trust do make him an allotment out of turn as a special case. It is unpracticable to give any directions as to the area in which such accommodation should be given, because much will depend on vacancies, but I have no doubt that the Bombay Port Trust will make the allotment appropriately in the light of what has been said above.

Now therefore I make my award in terms aforesaid.

Dated this 1st day of July 1962.

Sd/- F. JEEJEEBHoy,

ORDER

Arbitrator.

[No. 28/41/59/LRIV.]

New Delhi, the 20th July 1962

S.O. 2352.—Whereas, the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Chartered Bank, Calcutta and their workmen in respect of the matter specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Calcutta, constituted under section 7A of the said Act.

SCHEDULE

Whether in the matter of appointment as Assistant Officers, the supersession of Sarvashri K. G. Das, R. N. Nandy, K. N. Chakravarty and A. Mukherjee, clerks in the Chartered Bank, Calcutta, by Sarvashri Ashoke Kumar Sen Gupta, P. G. Dey and P. K. Bhattacharya of the said bank was justified and if not, to what relief Sarvashri K. G. Das, R. N. Nandy, K. N. Chakravarty and A. Mukherjee are entitled?

[No. 51(78)/61-LRIV.]

P. R. NAYAR, Under Secy.

New Delhi, the 20th July 1962

S.O. 2353.—The following draft of a scheme further to amend the Cochin Dock Workers (Regulation of Employment) Scheme, 1959, which the Central Government proposes to make in exercise of the powers conferred by sub-section (1) of section 4 of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), is published, as required by the said sub-section, for the information of

all persons likely to be affected thereby; and notice is hereby given that the said draft will be taken into consideration on or after the 20th August, 1962.

2. Any objections or suggestions which may be received from any person with respect to the said draft before the date so specified will be taken into consideration by the Central Government.

DRAFT SCHEME

"49-A. Power of revision of the Chairman and the Executive Officer.

Notwithstanding anything contained in this Scheme, the Chairman, in the case of an Order passed by the Executive Officer under clause 45, or the Executive Officer, in the case of an order passed by the Personnel Officer under the said clause, may, at any time, call for the record of any proceeding in which the Executive Officer or the Personnel Officer, as the case may be, had passed the order, for the purpose of satisfying himself as to the legality or propriety thereof and may pass such order in relation thereto as he may think fit:

Provided that the Chairman or the Executive Officer shall not pass any order under this clause which may prejudicially affect the interests of any person without giving such person a reasonable opportunity of being heard."

[No. 174/7/59-Fac.]

S.O. 2354.—The following draft of a scheme further to amend the Bombay Dock Workers (Regulation of Employment) Scheme, 1956, which the Central Government proposes to make in exercise of the powers conferred by sub-section (1) of section 4 of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), is published, as required by the said sub-section, for the information of all persons likely to be affected thereby; and notice is hereby given that the said draft will be taken into consideration on or after the 20th August, 1962.

2. Any objections or suggestions which may be received from any person with respect to the said draft before the date so specified will be taken into consideration by the Central Government.

DRAFT SCHEME

"48-A. Power of revision of the Chairman and the Deputy Chairman.

Notwithstanding anything contained in this Scheme, the Chairman, in the case of an Order passed by the Deputy Chairman under clause 44, or the Deputy Chairman, in the case of an order passed by the Personnel Officer under the said clause, may, at any time, call for the record of any proceeding in which the Deputy Chairman or the Personnel Officer, as the case may be, had passed the order, for the purpose of satisfying himself as to the legality or propriety thereof and may pass such order in relation thereto as he may think fit:

Provided that the Chairman or the Deputy Chairman shall not pass any order under this clause which may prejudicially affect the interests of any person without giving such person a reasonable opportunity of being heard."

[No. 174(7)/69-Fac.]

S.O. 2355.—The following draft of a scheme further to amend the Madras Dock Workers (Regulation of Employment) Scheme, 1956, which the Central Government proposes to make in exercise of the powers conferred by sub-section (1) of section 4 of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), is published, as required by the said sub-section, for the information of all persons likely to be affected thereby; and notice is hereby given that the said draft will be taken into consideration on or after the 20th August, 1962.

2. Any objections or suggestions which may be received from any person with respect to the said draft before the date so specified will be taken into consideration by the Central Government.

DRAFT SCHEME

"49-A. Power of revision of the Chairman and the Executive Officer.

Notwithstanding anything contained in this Scheme, the Chairman, in the case of an Order passed by the Executive Officer under clause 45, or the Executive Officer, in the case of an order passed by the Personnel Officer under the said clause, may, at any time, call for the record of any proceeding in which the Executive Officer or the Personnel Officer, as the case may be, had passed the order,

for the purpose of satisfying himself as to the legality or propriety thereof and may pass such order in relation thereto as he may think fit:

Provided that the Chairman or the Executive Officer shall not pass any order under this clause which may prejudicially affect the interests of any person without giving such person a reasonable opportunity of being heard."

[No. 174/7/59-Fac.]

S.O. 2356.—The following draft of a scheme further to amend the Vizagapatam Dock Workers (Regulation of Employment) Scheme, 1959, which the Central Government proposes to make in exercise of the powers conferred by sub-section (1) of section 4 of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), is published, as required by the said sub-section, for the information of all persons likely to be affected thereby; and notice is hereby given that the said draft will be taken into consideration on or after the 20th August, 1962.

2. Any objections or suggestions which may be received from any person with respect to the said draft before the date so specified will be taken into consideration by the Central Government.

DRAFT SCHEME

"48-A. Power of revision of the Chairman and the Executive Officer.

Notwithstanding anything contained in this Scheme, the Chairman, in the case of an order passed by the Executive Officer under clause 44, or the Executive Officer, in the case of an order passed by the Labour Officer under the said clause, may, at any time, call for the record of any proceeding in which the Executive Officer or the Labour Officer, as the case may be, had passed the order, for the purpose of satisfying himself as to the legality or propriety thereof and may pass such order in relation thereto as he may think fit:

Provided that the Chairman or the Executive Officer shall not pass any order under this clause which may prejudicially affect the interests of any person without giving such person a reasonable opportunity of being heard."

[No. 174/7/59-Fac.]

MAHINDRA KISHORE, Under Secy.

New Delhi, the 20th July 1962

S.O. 2357.—In exercise of the powers conferred by section 4 of the Mica Mines Labour Welfare Fund Act, 1946 (22 of 1946), read with sub-rule (2) of rule 3 of the Mica Mines Labour Welfare Fund Rules, 1948, the Central Government hereby appoints Shri S. R. Sankaran, Collector of Nellore as a member of the Mica Mines Labour Welfare Fund Advisory Committee for the State of Andhra Pradesh vice Shri Md. Mazharul Haq, and directs that the following further amendment shall be made in the notification of the Government of India in the Ministry of Labour and Employment, No S.O. 1979, dated the 17th September, 1958, namely:—

In the said notification, for entry (1), the following entries shall be substituted, namely:—

"(1) Shri S. R. Sankaran, Collector of Nellore—Chairman."

[No. 24(23)62-MIL.]

New Delhi, the 23rd July 1962

S.O. 2358.—In exercise of the powers conferred by section 8 of the Coal Mines Labour Welfare Fund Act, 1947 (32 of 1947), read with rule 3 of the Coal Mines Labour Welfare Fund Rules, 1949, the Central Government hereby nominates Shri K. B. Chougale, as a member of the Coal Mines Labour Welfare Fund Advisory Committee constituted by the notification of the Government of India in the Ministry of Labour and Employment No. S.O. 389, dated the 9th February 1961, vice Shri R. L. Malaviya resigned, and makes the following further amendment in the said notification, namely:—

In the said notification, in the entries against item No. 17, for the entries "Shri R. L. Malaviya", the entries "Shri K. B. Chougale" shall be substituted.

[No. 2/3/62-MIL]

S.O. 2359.—In exercise of the powers conferred by section 10 of the Coal Mines Labour Welfare Fund Act, 1947 (32 of 1947), the Central Government hereby makes the following further amendments in the Coal Mines Labour Welfare Fund Rules, 1949, the same having been previously published as required by sub-section (1) of the said section, namely:—

1. These rules may be called the Coal Mines Labour Welfare Fund (Amendment) Rules, 1962.
2. In the Coal Mines Labour Welfare Fund Rules, 1949, in sub-rule (1) of rule 6.—
 - (a) the word "and" occurring at the end of clause (iii) shall be omitted;
 - (b) after clause (iii), the following clause shall be inserted, namely:—

"(iv) The Chairman, respectively, of the Jharia Mines Board of Health, the Asansol Mines Board of Health and the Hazaribagh Mines Board; and"
 - (c) existing clause (iv) shall be re-numbered as clause (v).

[No. 3(29)/61-MI.]

S.O. 2360.—In exercise of the powers conferred by sub-section (1) of section 83 of the Mines Act 1952 (33 of 1952), the Central Government hereby makes the following amendment in the Schedule annexed to the notification of the Government of India in the Ministry of Labour and Employment No. GSR 975 dated the 11th August, 1960, namely:—

In item 5 of the said Schedule, for the existing entry in column 1, the following entry shall be substituted, namely:—

"Women employed on the surface in loading or unloading of railway wagons or of sand or in screening and washing plants or in work connected with fighting, isolating and controlling of fires".

[No. 6/7/62-MI(Am-6).]

S.O. 2361.—In exercise of the powers conferred by sub-section (1) of section 83 of the Mines Act, 1952, the Central Government hereby exempts—

- (a) persons holding such qualifications in mining as are approved in this behalf by the Central Government from the provisions of sub-regulation (1) of regulation 18 of the Coal Mines Regulations, 1957, to the extent that such persons may be admitted as candidates at the examinations for the Sirdar's or Shotfirer's certificates if the Board of Mining Examinations is satisfied that they have had practical experience and training in a coal mine (of a nature approved by the Board) for a period of not less than two years and one year respectively; and
- (b) persons holding a degree in mining engineering or other qualifications approved in this behalf by the Central Government from the provisions of sub-regulation (1) of regulation 18 of the Coal Mines Regulations, 1957, to the extent that such persons may be admitted as candidates at the examinations for the Shot-firer's certificate if the Board of Mining Examinations is satisfied that they have had practical experience and training in a coal mine (of a nature approved by the Board) for a period of not less than six months.

[No. 17/5/61-MI.]

S.O. 2362.—In pursuance of the provisions of sub-rule (1) of rule 3 of the Coal Mines Rescue Rules, 1959, the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Labour and Employment, No. S.O. 840, dated the 16th March, 1962, namely:—

In the said notification, in the entries against serial No. 1, for the entries "Shri G. S. Marwaha", the entries "Shri S. D. Prasad" shall be substituted.

[No. 14/20/62-MI.]

R. C. SAKSENA, Under Secy.

New Delhi, the 23rd July 1962

S.O. 2363.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Calcutta, in the matter of an application under Section 33A of the said Act from Shri Babu Lal Koiri and four others c/o Chapui Khas Colliery.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL: CALCUTTA.

MISC. CASE NO. 4 OF 1962 UNDER SEC. 33A.
ARISING OUT OF REFERENCE NO. 15 OF 1962.

PARTIES:

Shri Babulal Koiri and four others,
C/o. Chapui Khas Colliery,
P.O. Kalipahari.
Dt Burdwan—Applicants.

Vs.

The Manager, Chapui Khas Colliery,
P.O. Kalipahari, Dt Burdwan—Opposite Party.

PRESENT:

Shri L. P. Dave—Presiding Officer.

APPEARANCES:

1. Shri Kalyan Sankar Roy—On behalf of applicants.
2. Shri S. B. Chandra, Agent—On behalf of Opp. Party.

This is an application under section 33A of the Industrial Disputes Act.

The applicants allege that the opposite party has been guilty of contravention of the provisions of the Section 33 of the Industrial Disputes Act in that they changed certain service conditions during the pendency of reference No. 15 of 1962 in which they were concerned. The opposite party denied the allegations of the applicants and also raised certain other contentions.

When the matter came up for hearing before me, the applicants gave an application requesting that they may be allowed to withdraw the application without prejudice to their rights and contentions. It appears that some of the contentions raised by the applicants cannot be gone into in an application under section 33A of the Industrial Disputes Act and that is why this application is given for withdrawal. I think that the applicants should be allowed to withdraw the application without prejudice to their rights.

I grant them permission to do so. There will be no order as to costs.

L. P. DAVE, Presiding Officer

The 11th July, 1962

[No. 1/9/59-LRII.]

S.O. 2364.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Calcutta, in the matter of application under Section 33A of the said Act from Shri Mohan Singh and others, Tyndal Mazdoors, Chapui Khas Colliery.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL: CALCUTTA.

MISC CASE NO. 3 OF 1962 UNDER SEC. 33A.
ARISING OUT OF REFERENCE NO. 15 OF 1962.

PARTIES:

Shri Mohan Singh and Others.
Tyndal Mazdoors
Chapui Khas—Colliery—Applicants.

Vs.

The Manager,
Chapui Khas Colliery,
P.O. Kalipahari, Dt. Burdwan—Opposite Party.

PRESENT:

Shri L. P. Dave—Presiding Officer.

APPEARANCES:

1. Shri Kalyan Sankar Roy—On behalf of applicant.
2. Shri S. D. Chander, Agent—On behalf of Opposite Party.

This is an application under section 33A of the Industrial Disputes Act.

The Applicants allege that the opposite party has been guilty of contravention of the provisions of the Section 33 of the Industrial Disputes Act in that they changed certain service conditions during the pendency of reference No. 15 of 1962 in which they were concerned. The opposite party denied the allegations of the applicants and also raised certain other contentions.

When the matter came up for hearing before me, the applicants gave an application requesting that they may be allowed to withdraw the application without prejudice to their rights and contentions. It appears that some of the contentions raised by the applicants cannot be gone into in an application under section 33A of the Industrial Disputes Act and that is why this application is given for withdrawal. I think that the applicants should be allowed to withdraw the application without prejudice to their rights.

I grant them permission to do so. There will be no order as to costs.

The 11th July, 1962.

L. P. DAVE, Presiding Officer.

[No. 1/9/59-LR.II.]

S.O. 2365.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Bombay, in the matter of an application under Section 33A of the said Act from Shri Parmeshwardeen, son of Shri Ramcharan Singh of Associated Cement Cos. Ltd., Nowrozabad Colliery, P.O. Nowrozabad, District Shahdol.

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT
BOMBAY**

APPLICATION No. CGIT-4 OF 1961

ARISING OUT OF REFERENCE No. CGIT 17 OF 1961

Sri Parmeshwardeen, s/o Ramcharan Singh of Associated Cement Cos. Ltd.
Nowrozabad Colliery, P.O. Nowrozabad,
District Shahdol, M.P.—Complainant.

Vs.

Messrs. Associated Cement Cos. Ltd.,
Nowrozabad Colliery, P.O. Nowrozabad,
District Shahdol, M.P.—Opposite Party

Re: Complaint under Section 33A of the Industrial Disputes Act 1947
(Act XIV of 1947)

PRESENT:

Shri Salim M. Merchant, Presiding Officer.

APPEARANCES:

For the Complainant.—Shri K. B. Chougule, General Secretary, Nowrozabad Colliery Mazdoor Sangh with Shri G. C. Jaiswal, Member, Working Committee, Indian National Mine Workers' Federation.

For the Opposite Party.—Shri P. P. Khambatta, Advocate (O.S.) with Shri J. D. Sumariwalla and Shri G. L. Govil, Personnel Officers

Bombay, dated the 3rd July, 1962

AWARD

This is a complaint, dated 18th June 1961, purporting to be under Section 33A of the Industrial Disputes Act, 1947 (Act XIV of 1947), and is directed against the retirement of the complainant, Parmeshwardeen, s/o Ramcharan Singh, from service on 4th June 1961. The complainant claims that he was a workman concerned in the industrial dispute—Reference No. CGIT-17 of 1961—which was referred for adjudication by an order of the Central Government published in the Government of India Gazette, dated 3rd June 1961, and that as his retirement from service was effected during the pendency of this dispute without the permission of the Tribunal, there has been a breach of Section 33 of the Act by the Opposite Party and this complaint is maintainable. On the merits his claim is that there is no rule of retirement, in force in the company entitling the company to retire him from service on reaching the age of 60 years.

The company in its written statement dated 13th July 1961 has raised two preliminary objections to the maintainability of this complaint. Firstly, it urges that there has been no breach of the provisions of Section 33 of the Industrial Disputes Act, 1947 (Act XIV of 1947) by it. It has stated that the complainant automatically ceased to be in its service with effect from 3rd June 1961 as a result of the company's notice dated 8th/9th September 1960 as modified by its notice dated 8th October 1960, served upon the complainant. The company has further urged that the order of reference in Reference No. 17 of 1961 appeared in the Gazette of India Part II Section 3 sub-section (ii) dated 3rd June 1961, which was read and seen by the opposite party only on 8th June 1961, by which date the complainant had already been retired from service on 3rd June 1961. Secondly, the company contends that this complaint is not maintainable as the complainant is not a workman concerned or connected with reference No. 17 of 1961 which was regarding the retirement of an individual employee namely Shri N. N. Ghosh.

At the hearing before me of this complaint only the preliminary objections to the maintainability of this complaint were urged.

To appreciate the contentions of both parties, it is necessary to state that the industrial dispute in Reference No. 17 of 1961 was referred to this Tribunal for adjudication by the Central Government by Ministry of Labour and Employment's Order No. 2/17/61-LRII, dated 23rd May 1961, and it is admitted that this order was published in the Government of India Gazette, dated 3rd June 1961. The subject matter of that industrial dispute as stated in the Schedule to the said order is as follows:—

"Whether the retirement from service of Shri N. N. Ghosh with effect from 1st January 1961, was justified and if not to what relief is he entitled."

I may say that my award dated 31st May 1962 in that dispute has been published in the Gazette of India, Part II, Section 3(ii) dated 23rd June 1962.

The first question that falls for determination is whether the retirement of the complainant, Shri Parmeshwardeen, took place during the pendency of the industrial dispute Reference No. 17 of 1961. If it did not, then the complaint would not be maintainable. Now, technically speaking the pendency of the industrial dispute in Reference No. 17 of 1961 must be held to have commenced after Government referred the industrial dispute in Reference No. 17 of 1961 to this Tribunal for adjudication. The date when this notification came to the knowledge of the Company is irrelevant (1953 I LLJ. p. 259). It is, however, argued by Shri P. P. Khambatta, the learned Advocate for the opposite party, that before there can be any contravention of section 33 of the Act, there must be some overt act done by the employer to constitute the contravention of section 33 of the Act. He has argued, and in my opinion rightly, that in this case the retirement of Parmeshwardeen having taken place automatically as the result of the Company's notice dated 8th/9th September 1960, as modified by notice dated 8th October 1960, and not by any overt act done by the company after the Government's order of reference in the industrial dispute Reference No. 17 of 1961—

cannot be said that there has been a contravention of section 33 of the Act. In other words, as held by a Bench of the Labour Appellate Tribunal in the case of Imperial Chemical Industries (India) Ltd., Amritsar and Chunnial (1957 II LLJ. p. 153), only an overt act of the kind mentioned in that section (Section 33) pending the Tribunal proceedings, will come within the mischief of the section and not also the automatic effect of an anterior act. Here, there is no doubt that the termination of the services of the complainant by his resignation was effected on 3rd June 1961, but it was the result of the automatic operation of the notice given by the company on 8th/9th September 1960 as modified by its notices dated 8th October 1960. As both these notices were issued to Parmeshwardeen prior to the Government order referring the industrial dispute in Reference No. 17 of 1961 to this Tribunal, i.e., prior to the pendency of the proceedings in Reference No. 17 of 1961, it cannot be said that his retirement, assuming for the purposes of this argument that it was a prejudicial change in his service, was effected during the pendency of the dispute.

In the result, the first legal objection urged by the company must be upheld, and it must be held that this complaint is not maintainable as contravention of section 33 of the Act, is not established during the pendency of Reference No. 17 of 1961.

In the result, the complaint fails as not being maintainable and is dismissed as such.

I may say that I must not be understood to have expressed any opinion on the second legal question whether complainant was a workman concerned in the industrial dispute Reference No. 17 of 1961, nor on the merits of his claim.

No order as to costs.

(Sd.) SALIM M. MERCHANT,

Presiding Officer,
Central Govt. Industrial Tribunal,
Bombay.

[No. 2/17/61-LRII.]

New Delhi, the 24th July 1962

S.O. 2366.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Calcutta, in the matter of an application under Section 33A of the said Act from Shri Phani Karmakar and others C/o Chapui Khas Colliery.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL: CALCUTTA

MISC. CASE NO. 5 OF 1962 UNDER SEC. 33A
ARISING OUT OF REFERENCE NO. 12 OF 1962

PARTIES:

Shri Phani Karmakar and others C/o. Chapui Khas Colliery, P.O. Kalipahari, Dt. Burdwan—Applicants.

Vs.

The Manager, Chapui Khas Colliery, P.O. Kalipahari, Dt. Burdwan—Opposite Party.

PRESENT:

Shri L. P. Dave—Presiding Officer.

APPEARANCES:

1. Shri Kalyan Sankar Roy—On behalf of applicants.
2. Shri S. D. Chandra, Agent—On behalf of Opp. Party.

This is an application under section 33A of the Industrial Disputes Act.

The applicants allege that the opposite party has been guilty of contravention of the provisions of the Section 33 of the Industrial Disputes Act in that they changed certain service conditions during the pendency of reference No. 12 of 1962 in which they were concerned. The opposite party denied the allegations of the applicants and also raised certain other contentions.

When the matter came up for hearing before me, the applicants gave an application requesting that they may be allowed to withdraw the application without

prejudice to their rights and concurrences. It appears that some of the contentions raised by the applicants cannot be gone into in an application under section 33A of the Industrial Disputes Act and that is why this application is given for withdrawal. I think that the applicants should be allowed to withdraw the application without prejudice to their rights.

I grant them permission to do so. There will be no order as to costs.

L. P. DAVE,

The 11th July 1962.

Presiding Officer.

[No. 2/75/59-LRII.]

S.O. 2367.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Calcutta, in the matter of an application under Section 33A of the said Act from Shri Jamuna Singh, Night Guard C/o. Colliery Mazdoor Sabha.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL: CALCUTTA

MISC. CASE NO. 2 OF 1962 UNDER SEC. 33A

ARISING OUT OF REFERENCE NO. 15 OF 1962

PARTIES:

Shri Jamuna Singh, Night Guard, Chapui Khas Colliery, C/o. Colliery Mazdoor Sabha, G. T. Road, Asansol, Dt. Burdwan—Applicant.

VS.

The Manager, Chapui Khas Colliery, P.O. Kalipahari, Dt. Burdwan—Opp. party.

PRESENT:

Shri L. P. Dave—Presiding Officer.

APPEARANCES:

1. Shri Kalyan Sankar Roy—On behalf of Applicant.
2. Shri S. D. Chandra—On behalf of Opp. Party.

AWARD

This is an application under section 33A of the Industrial Disputes Act.

The applicant alleges that he was working as a Night Guard in Chapui Khas Colliery for about nine years, but that his services were dispensed with during the pendency of Reference Nos. 12 and 15 of 1962 without the express permission in writing from this Tribunal as required under Section 33 of the Industrial Disputes Act; that he was victimised because of his Trade Union activities. He therefore prayed that his complaint may be enquired into and he may be reinstated with back wages.

The opposite party denied the allegations of the applicant and alleged that the applicant was dismissed after a proper charge-sheet and proper enquiry because he was found grossly negligent in his duties.

When the matter came up for hearing before me, the parties after some discussions entered into a compromise and produced a memorandum thereof before me (copy appended herewith). Under the compromise the opposite party has agreed to reinstate the applicant in the same post with effect from 12th July 1962 without a break in service and the period of unemployment is to be treated as 'leave without pay'. In my opinion, the compromise is fair and reasonable. I therefore grant it.

In the result, I order an award to be passed in terms of the compromise. There will be no order to costs.

L. P. DAVE,

The 11th July 1962.

Presiding Officer.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL: CALCUTTA

MISCELLANEOUS CASE NO. 2 OF 1962

REFERENCE NO. 15 OF 1962

Shri Jamuna Singh Night Guard, Chapui Khas Colliery—Complainant

VS.

Manager, Chapui Khas Colliery, P.O. Kalipahari.

The parties discussed the matter and came into the following agreement:—

1. That Shri Jamuna Singh, Night Guard, will be reinstated to his job from the 12th July 1962. There will be no break in his service and his period of unemployment will be treated as leave without pay.

KALYAN SANTAK ROY,
General Secretary,
Indian Mine Workers Federation.

11-7-62.

S. D. CHANDRA,

Agent,

Chapui Khas Colliery

JAMUNA SINGH,
Night Guard.

[No. 1/9/59-LRII.]

S.O. 2368.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the industrial dispute between the employers in relation to the Kotma Colliery and their workmen.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, DHANBAD.

REFERENCE No. 36 of 1960

Employers in relation to the Kotma Colliery

AND

Their Workmen.

PRESENT:

Shri Salim M. Merchant, Presiding Officer.

For the Employers.—Counsel Shri P. P. Khambatta, instructed by Shri G. L. Govi, and Shri J. D. Sumariwalla, Personnel Officers and Shri K. V. Iyer.

For the Workmen.—Shri K. B. Chougule, General Secretary, Kotma Colliery Labour Union and Shri G. C. Jalswal, Member, Executive Committee, Indian National Mine Workers' Federation.

Dated: 11th July 1962

STATE: Madhya Pradesh

INDUSTRY: Coal Mining.

AWARD

The Central Government by the Ministry of Labour and Employment's Order No. 2/149/60-LRII, dated 6-8-1960, made in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (Act XIV of 1947), was pleased to refer the industrial dispute between the parties above named in respect of the subject matters specified in the following schedule to the said order for adjudication to the Industrial Tribunal at Dhanbad:

SCHEDULE

"Whether the management of Kotma Colliery were justified in refusing to employ Shri Chand Kishore as Coal Cutting Machine Driver? If not, what relief he is entitled to.

2. The history of this dispute as stated in the parties written statements is that Chand Kishore, the workman concerned, was a permanent Coal Cutting machine driver in the Kotma Colliery. In May 1959 he was allowed leave for seven days (6th to 12th May 1959). He, however, applied for extension of leave by a telegram dated 10th May, which was refused by Company's letter dated 13th May and he was called upon to resume duty immediately. Chand Kishore did not reply to this letter nor did he comply with its requisition, whereupon the company wrote to him on 24th July 1959 that in having unauthorisedly over stayed his leave he had, under the company's standing order, lost his lien on his employment (see Annexure A to company's written statement). The Union raised an industrial dispute over this which was settled before Shri P. N. Razdan the Conciliation Officer (Central), Jabalpur on 21st August 1959, and the settlement was recorded in the following terms:—

"Shri Chand Kishore, Coal cutting machine driver was given appointment letter for his employment on permanent basis on spot during the

course of discussions on the case today. Dispute is, therefore, closed and settled."

These terms of settlement were signed before the Conciliation Officer on behalf of the company by Shri G. D. Jha, the Manager of Kotma Colliery, and on behalf of the Union by Shri K. B. Chougule (see Annexure A to Union's written statement). Accordingly, on 22nd August 1959 the company issued an appointment order to Chand Kishore, appointing him as coal cutting machine driver (Ex. E-2). The order of appointment is signed by the Manager of the Kotma Colliery, Shri G. D. Jha and also by Shri E. S. Sherdiwalla, Electrical and Mechanical Engineer of Kotma Colliery (E.W.1) who, admittedly had made the following endorsement thereon in his own handwriting:—

"To be taken in existing vacancy".

3 Now, it is admitted that when Chand Kishore reported himself for work on 22nd August 1959, he was not given work as coal cutting machine driver, which is admittedly a category VII post but was asked according to the company, "to work as senior helper to any of the coal cutting machine drivers he liked or as a driller if he preferred to work independently in any way affecting his emoluments". The company's case is that on 22nd August 1959 there was limited working of the coal machines and therefore all coal cutters could not be given work of coal cutting machine drivers that there is a practice in vogue by which, whenever, owing to limited working of the coal cutting machine relays, some coal cutting machine drivers are rendered temporarily surplus, the senior most Drivers are offered the job, and the remaining drivers are offered alternative jobs of drilling, attendant to coal cutting machine or maintenance of coal cutting machines, whichever is available without affecting their emoluments. According to the Union, whenever the coal cutting machine goes out of order and the coal cutting machine driver is rendered idle he is not asked to do any alternative work of a lower category, it being admitted that the work of drilling, of helper or assistant to the coal cutting machine driver are all works of a lower category—category IV—but he is required to attend to the repairs of the coal cutting machine. But to proceed, according to the management, on Chand Kishore's re-employment on 22nd August 1959, there was limited working of the coal cutting machine relays and as such out of the total of 7 coal cutting machine drivers—including Chand Kishore, only the five Senior most of them could be employed as coal cutting machine drivers and the remaining were in accordance with the practice in vogue offered alternative jobs without in any way affecting their emoluments. Chand Kishore when asked to do any of these alternative jobs, refused to do so. He kept on lifting his attendance token but refused to do alternative job. He was, however, given the job of coal cutting machine driver on 6th September 1959, when some coal cutting machine drivers were absent, the next day he was again asked to work on the alternative job, but he refused, whereupon 9 memos were issued to him between 5th September 1959 & 6th September 1959 recording that he had lifted his token on those days but had refused to do the alternative work as instructed by his Superiors but had remained idle and that he had been marked absent on that day. Some of the memos stated that this amounted to misconduct on his part. (4 memos collectively marked Ex. 8). Chand Kishore admits receipt of one only of these memos. On 4th September 1959, the Electrical and Mechanical Engineer served a notice (Ex. E-1) on Chand Kishore, in the concluding para of which it is stated:—

"Your above action of lifting token and not doing work amounts to misconduct under clause 16(1), (2) and (9). You are warned that you will be liable for disciplinary action in case you do not immediately attend to work allotted to you by your Supervisor".

The Company in para 6 of its written statement referring to the manner in which Chand Kishore's services were terminated has stated as follows:—

"Several notes, which are annexed hereto and marked "Exhibit B", were given to Chand Kishore by the Departmental Head, informing him that his refusal to carry out the instructions of his superiors amounted to misconduct, but he persisted in his refusal to do alternative job. In view of his persistently refusing to do alternative jobs, after an enquiry, he was considered to have voluntarily abandoned his job."

4. I may here state that the management at the hearing before me failed to produce the record of the enquiry. It has also not produced any other order passed by the Company against Chand Kishore.

5. The Union in its written statement has admitted that Chand Kishore refused to do the work of coal-cutting machine helper or drill mazdoor, as the management was asking him to do this work to harass him because it was through the efforts of the Union that the management had to take him back in service. Under the

agreement reached on 21st August 1959 before the Conciliation Officer. Its case is that one Sarjoo Singh, who was in charge of the coal cutting department is a supporter of the Socialist Union of Kotma Colliery and since Chand Kishore had been able to get back his job because of the efforts of this Union, which is affiliated to the I.N.T.U.C. and is therefore a rival Union, Sarjoo Singh wanted to harass him and therefore did not give him work of a coal cutting machine driver and wanted him to work as a helper. The Union has referred to the terms of the settlement recorded by the Conciliation Officer and has argued that under it the company had on 21st August 1959, agreed to give Chand Kishore work as Coal cutting machine driver, but that in violation of that agreement it wanted Chand Kishore to work as a helper. It has denied that there was any practice or vogue by which Chand Kishore could be called upon to work as helper or assistant to coal cutting machine driver. It has, therefore, submitted that the company's said action had amounted to a refusal of the company to re-employ Chand Kishore as a coal cutting machine driver and the same was unjustified and it has claimed that Chand Kishore should be directed to be reinstated in service with full back wages and allowances with effect from 22nd August 1959.

6. At the hearing both parties led oral evidence. The Union has examined Chand Kishore (W.W.1) and Ram Ratan Yadav a fitter in the Kotma Colliery (W.W.2) and the Company has examined. Shri E. S. Sherdiwalla, Electrical and Mechanical Engineer of Kotma Colliery (E.W.1). The Management has also relied upon certain records and documents filed by it.

7. I may at the outset, dispose of a preliminary objection stated in the company's written statement and urged at the hearing by its learned Counsel Shri P. P. Khambatta, that this reference was incompetent and not maintainable as the company had never refused to re-employ Chand Kishore as Coal cutting machine driver, and has in fact taken him back in service as coal cutting machine driver on 22nd August, 1959. I am of the opinion there is no substance in this connection. The real dispute referred to the Tribunal as will be clear from what is stated earlier is whether the company had after the agreement of 21st August, 1959, which it reached before the Conciliation Officer (C), Jabalpur given Chand Kishore, the work of a coal cutting machine driver, which it had agreed to do. It is in this sense that the words, "re-employ him as coal cutting machine driver" have been used in the order of reference. The Union's complaint is that the company was bound to give Chand Kishore the work of coal cutting machine driver under the Conciliation agreement of 21st August, 1959 and that its failure to give him that work had amounted to the company, in fact never having re-employed him as coal cutting machine driver. In my opinion, this is the industrial dispute which has been referred for adjudication and the question to be determined in this reference is whether the company had given or refused to give Chand Kishore the work of coal cutting machine driver and if it was a case of refusal whether such refusal was justified.

8. Now, the first question that falls for determination is whether the company was, under the terms of the Conciliation agreement of 21st August, 1959, bound to give Chand Kishore the work of a coal cutting machine driver. From the language of the terms of the agreement which I have extracted in Para 2 above it is clear that the company had on 21st August, 1959, clearly agreed to give employment to Chand Kishore as permanent coal cutting machine driver and gave an appointment on the spot to that effect. The appointment letter of 22nd August, 1959 (Ex. E.2), also clearly states that Chand Kishore was appointed as a coal cutting machine driver in an existing vacancy. Surely, the clear meaning of both these writings is that the company in Conciliation agreement had agreed to give him work as a coal cutting machine driver from 22nd August, 1959. The company's case as stated at the hearing by its witness E.S. Sherdiwalla, its Electrical and Mechanical Engineer at the Kotama Colliery (E.W.1) is that after the Conciliation agreement was signed on 21st August, 1959, the same day later in the afternoon the General Manager of the Colliery, Shri Jha, called Chand Kishore and explained to him that as there were shortage of working faces, they would not be able to give him the work of coal cutting machine driver but that he would have to work as a driller or coal cutting machine attendant but he would be paid the wages of a driver. According to Shri Sherdiwalla in the morning at 8 A.M. on 21st August, 1959, Shri Jha had called him and told him that the Conciliation Officer had arrived to Conciliate in the dispute regarding Chand Kishore and 17 other workmen. Thereupon, Shri Sherdiwalla told Shri Jha that as on that day there were only two coal cutting machines working in 3 shifts each in 2 districts, there was one permanent coal cutting machine driver who was surplus and who was doing alternative work other than the driver's work and that if Chand Kishore was taken back as a driver he would

also be surplus and they would not be able to give him driver's work. Thereupon Shri Jha told him (witness Sherdiwalla) that he would desire this point during Conciliation proceedings. Sherdiwalla did not attend the Conciliation proceedings, but according to his evidence Shri Jha called him in again at 11 a.m. on the same day (i.e. 21st August, 1959) and told him that he had agreed to re-appoint Chand Kishore as coal cutting machine driver, whereupon, according to Sherdiwalla, he once again drew the attention of Mr. Jha that they would not be able to give Chand Kishore the work of a coal cutting machine driver. Thereupon, Shri Jha told witness (Sherdiwalla) that he would explain to Chand Kishore that he would have to do work other than that of a coal cutting machine driver, as a driller or a coal cutting machine attendant, for the time being. Thereafter, witness happened to see Shri Jha again later in the afternoon Chand Kishore was also present and in his (witness's) presence Shri Jha explained to Chand Kishore that he would not be able to give him driver's work but that he would have to work as a driller or coal cutting machine attendant, but he would be paid the wages of a driver. Chandra Kishore did not say anything to this and left. Chandra Kishore when he was questioned about this interview has denied that any such interview had taken place between him and Shri Jha. Shri Choughule for the union has characterised this alleged interview between Jha and Sherdiwalla as an after-thought by the management. He had put to Sherdiwalla in cross-examination that the conciliation proceedings had in fact taken place at Nowrozabad in the afternoon of 21st August, 1959 and witness stated that he did not know about it. The whole story of Sherdiwalla's three interviews with Jha on 21st August, 1959, is unnatural and difficult to believe. It is difficult to understand how if Sherdiwalla had warned Jha at 8 a.m. on 21st August, 1959, that there was no work for a coal cutting machine driver in the Kotma Colliery, Jha would immediately thereafter at 11 a.m. have agreed to take on Chandra Kishore as a coal cutting machine driver. The second interview of Sherdiwalla and particularly his "happening to see" Shri Jha the third time when Jha was telling him (Chandra Kishore) that there was no work of coal cutting machine driver for him and that he would have to work as a driller or helper, is unnatural and has all the appearances of a story made up afterwards. But what is most surprising is that though Sherdiwalla had on 21st August, 1959, more than once been drawing the attention of Jha to the fact that there was no work for a coal cutting machine driver, he himself on 22nd August, 1959, signed the order of appointment (exhibit E-2) in which he had in his own handwriting stated, "to be taken in existing vacancy". I am more impressed by the witness's written word than his oral testimony.

9. From the above two other things are clear (1) that the officers of the company (the Manager of the Colliery and the Electrical and Mechanical Engineer) who had signed exhibit E-2 were themselves of the opinion that the writing meant that from 22nd August, 1959, Chandra Kishore was to be given work as a coal cutting machine driver and (2) that it was necessary to take his consent to his doing the alternative duties as a driller or a helper or attendant to the coal cutting machine driver, otherwise it is difficult to understand why Jha should have thought it necessary to call him and tell him that he would have to work in these alternative jobs and obtain his consent to doing the alternative work. This conduct in my opinion militates against the stand taken by the company that there was a practice in vogue in the colliery for coal cutting machine drivers to work in the alternative duties of drillers or helpers and attendants to coal cutting machine drivers. The union has denied that there was any such practice in vogue in the Kotma Colliery. Therefore, the onus for proving this practice was on the company. The company has sought to prove this practice by stating that Chandra Kishore had himself in the past had another alternative job of helper. It has for that purpose sought to rely upon three entries dated 9th September, 1957, 12th October, 1957 and 25th August, 1958, in the Colliery's Coal Cutting Register (exhibit E-4) [entries exhibits E-4(a), (b) and (c) respectively]. Now on a scrutiny of each of these entries it is found that Chandra Kishore had on 9th September, 1957, worked for 14 hours on the repair of the coal cutting machine which had gone out of order; that on 12th October, 1957, the machine was out of order for adjusting nuts and on 25th August, 1958, the machine had broken down. It is not stated in any of these entries that Chandra Kishore had on those days done the alternative work of a helper or assistant or of a driller. The union's case is that when a coal cutting machine goes out of order it is the coal cutting machine drivers who are required to assist in repairing the coal cutting machine in the workshop. This is supported by the following statement by the company's witness Shri Sherdiwalla in his evidence:

"Though it is not correct to say that the coal cutting machine driver would be doing the repairs himself the drivers and attendants do assist the machine in charge and/or his assistant in opening the parts, cleaning

the parts and assembling the machine after repairs. In addition to this they help in lifting and shifting the heavy parts"

and his further admission in his cross-examination that the registers which he had produced do not show when a coal cutting machine driver had worked as a driller. He has further admitted that except for the 3 entries relied upon by him [exhibit E-4 (a), (b) and (c)] Chandra Kishore had never worked in the alternative job.

10. The management has in support of establishing this alleged practice in vogue urged that assistants-in-charge had on occasions also worked as coal cutting machine drivers and for this it has relied upon certain entries in the Coal Cutting Report Register of the Kotma Colliery for the period from 1st November, 1959 to 30th April, 1960 (exhibit E-5). From this register the company relies on entries dated 12th November, 1959 to 15th November, 1959, which show that on those days one Callan Singh, assistant in charge had worked as coal cutting machine driver and had on each of these dates given 2, 5, 3 and 3 cuts respectively [exhibits E-5(a) and 5(b)]. It also relies on entries regarding Babu Sarjoo Singh, coal cutting machine in charge under dates 21st November, 1959, 22nd November, 1959 and 23rd November, 1959, having given 5, 6 and 5 cuts respectively on those dates [exhibit E-5(c) collectively]. But we were not told in what circumstances the coal cutting machine in charge worked in the lower category of coal cutting machine drivers. It appears to me considering that the company could produce entries only with regard to two coal cutting machine in charges and that too for work done on a few days and further considering that the number of cuts given were not the normal cuts given by a coal cutting machine driver in a shift, that these entries relate to work done under some exceptional circumstances. In any case this would not help to establish the practice that the coal cutting machine drivers do alternative work of driller, helper or assistant when there is no work of coal cutting machine driver.

11. In the result on an anxious consideration of the oral and documentary evidence on record I am satisfied that the company has failed to establish its allegation in its written statement on which it has so heavily relied that there was a practice in the Kotma Colliery for coal cutting machine drivers to do alternative work in the colliery when work of coal cutting machine driver was not available.

12. I would, therefore, hold that the company was not justified in asking Chandra Kishore to do alternative work other than that of a coal cutting machine driver.

13. Shri P. P. Khambatta for the company argued that if a workman is offered the emoluments of his post he cannot refuse to do alternative work of a lower category. According to Shri Khambatta what is material is that the workman should be offered the emoluments of his post and as long as that is offered he cannot refuse to do the alternative work of an admittedly lower category, which he may be asked to do. He has in support relied upon the decision of a Bench of the Labour Appellate Tribunal in the case of J. K. Cotton Spinning & Weaving Mills Co. Ltd., and Bisram and 6 others (1955 II ILJ p. 393). Now, that was a case arising out of an application by the employer company under section 22 of the Industrial Disputes (Appellate Tribunal) Act, 1950 for permission to dismiss seven workmen, who, because of shortage of work in their department had been laid off and offered alternative employment during the period of lay-off in another department of the mills. It appears that the alternative jobs were such that these workmen could have done. The workmen refused to do the alternative work and their defence was that their refusal was justified as they were not assured by the management that by accepting the alternative employment their wages would not be reduced by virtue of the provisions of section 25E of the Industrial Disputes Act. The learned Members of the Labour Appellate Tribunal were of the opinion that the refusal in the circumstances could not be considered to be refusal of a lawful and reasonable order of the superior within the meaning of the relevant standing order of the company and that in view of the provisions of section 25E of the Industrial Disputes Act, 1947 the seven workmen were justified in asking for an assurance from the management that by accepting an alternative employment their wages could not be reduced and that the management was in the wrong in refusing such assurance. The Labour Appellate Tribunal, therefore, refused to grant the permission asked for and rejected the company's application under section 22. Shri Khambatta has, however, relied upon the following

observation in the decision of the Labour Appellate Tribunal which followed the finding stated above:—

"It is a well established principle now that the management has full discretion to transfer the employee from one job to another provided the job to which he is transferred is one which he can do and the transfer does not involve any reduction in his wages."

With utmost respect that observation appears to me to be "obiter". In my opinion that case can be distinguished on facts from the present case as that was a case under section 22 of the Industrial Disputes (Appellate Tribunal) Act, and the lay-off had taken place under section 25E of the Industrial Disputes Act. In this case the company had not laid off Chandra Kishore under section 25E of the Act and one of the grievances of Shri Choughule is that the company had failed to lay him off. He has argued that lay-off compensation is not wages and has relying upon a decision of the High Court of Bombay in the case of Anusuya Vithal and others v/s J. H. Mehta, Additional Authority under the Payment of Wages Act [A.I.R. 1960 (Bom.) p. 201], argued that a workman was entitled to re-employment even if he refused alternative employment and that the only effect of refusing alternative employment was that he would lose his lay-off wages but not his employment. In that decision which no doubt centred round the construction of the definition of the term "wages" under the Payment of Wages Act, His Lordship (Chainani C. J.) in discussing the effects of the failure of an employer to give employment to his workman and who has consequently to be laid off, observed:—

"During the period of lay-off the employer is not in a position to provide work and the employee cannot insist on work being provided or wages being paid to him. The employee is also not under any duty to work for his master or even to present himself for work. He has to present himself for work if he desires to claim compensation (See section 25E of the Industrial Disputes Act). But he has an option in the matter. If he remains absent he will not be entitled to compensation but he will not lose the right which he possesses under the standing orders of reinstatement when the normal working is resumed."

12. In my opinion, on the basis of this decision the contention of Shri Choughule that when after agreeing to Chandra Kishore's re-employment as coal cutting machine driver from 22nd August 1959 the company could not give him work of a coal cutting machine driver it was a case where the company should have laid him off and then asked him to do the alternative work and that failure or refusal to do alternative work would not have deprived Chandra Kishore of his employment but would have disentitled him to receive lay-off compensation under section 25E of the Industrial Disputes Act, 1947 and that when employment to him as coal cutting machine driver was available, which according to the company was available from 16th November 1959 he would have been entitled to be given the work of a coal cutting machine driver.

13. This brings me to another contention urged by Shri Choughule and that is that the management's plea that Chandra Kishore had voluntarily abandoned his job is not correct nor tenable in law. The company in para 6(iv) of its written statement has urged:—

"In view of his (Chandra Kishore's) persistently refusing to do alternative jobs after an enquiry he was considered to have voluntarily abandoned the job."

14. The company's case on this pleading is that Chandra Kishore was deemed to have voluntarily abandoned his job because he had persistently refused to do the alternative job. Now this theory of abandoning his job is impossible to accept as Chandra Kishore had been coming to work every day because he used to lift his token. This, if anything, shows that he was anxious to work and was asking for work as coal cutting machine driver which the company could not give him except on one day i.e. 6th September, 1959. It is significant that the work of coal cutting machine driver was given to him after the company's notice of 4th September, 1959. It is therefore difficult to accept the company's case that Chandra Kishore was deemed to have abandoned his job.

15. The company has stated in its written statement para 6(iv) extracted above that the company had come to the conclusion that he had abandoned his job after

an enquiry was held. The company's witness Sherdiwalla stated in cross-examination:-

"At the end of September 1959 Chandra Kishore was charge-sheeted for refusing to do alternative work and pending the enquiry that followed he was suspended. I do not know when the enquiry was held. I do not know how long the suspension continued."

16. Now, the most surprising part of this case is that in spite of being called upon the management could not produce the charge-sheet or the enquiry proceedings. There was no order terminating Chandra Kishore's services. There was no order terminating Chandra Kishore's services produced at the hearing. The suspension of Chandra Kishore by the management knocks the bottom out of the company's plea that Chandra Kishore had abandoned his job. The company in this case has put up a deliberately vague plea that he was treated as having abandoned his job and it has for that purpose relied upon the memos (exhibit B). But those memos clearly state that Chandra Kishore had lifted his token and reported for work on each of those days and that he had refused to do alternative work. Those memos if anything contradict the story of his having abandoned his job and is further inconsistent with Sherdiwalla's statement that he was suspended from service pending enquiry.

17. In my opinion, therefore, the company's contention that Chandra Kishore's employment came to an end because after an enquiry it was considered that he had abandoned his job is manifestly wrong and unsupported by facts and one against the rules of natural justice as the company has failed to prove that a charge-sheet was served and an enquiry was held. Chandra Kishore's termination of service by the company must therefore be held to be illegal and tantamount to the company's improper and illegal refusal to re-employ him as coal cutting machine driver.

18. In view of these findings it is hardly necessary to go into the company's plea that Chandra Kishore was not given work of a coal cutting machine driver because in August 1959 the company was working only 2 districts of the Kotma Colliery. Now in cross-examination witness Sherdiwalla had to admit that in fact three districts were being worked during August/September 1959 viz. (1) 4 District Bottom Seam (2) No. 3 District and (3) No. 2 West District. In re-examination, however, he stated that though he had made a mistake in stating in examination in chief that only 2 Districts were being worked whilst in fact 3 districts were worked and he went on to add that coal cutting machines were being worked only in No. 3 District and No. 2 West District. Now, there is discrepancy between what this witness stated and the company's register as to what was meant by No. 2 District. Whilst Sherdiwalla's case was that in August/September 1959 only No. 2 West District was being worked and that wherever in the company's record District No. 2 was mentioned only District No. 2 West was meant it is found from the entries in the company's register for the week commencing as early as 8th April, 1959 that No. 2 District has two sides East and West which are separately mentioned in Hindi as "Purab and Paschim". Shri Choughule has argued that the mention of No. 2 District for the period from August to November 1959 pertains not only to No. 2 "West" but also to No. 2 East District. In other words that more districts were worked than the witness was prepared to admit. The fact that District No. 2 had two sides No. 2 East and No. 2 West is clearly established from the company's register (exhibit E/3). I am therefore not satisfied with the company's story. There is contradiction between the oral testimony of the company's witness and the record and therefore the company's case that there was really no work for Chandra Kishore as a coal cutting machine driver from 22nd August 1959, is not free from serious doubt and I am not prepared to hold that there was no work for Chandra Kishore as coal cutting machine driver.

19. In the overall result I hold that the management of the Kotma Colliery was not justified in refusing to re-employ Chandra Kishore as coal cutting machine driver.

20. The next question that falls for determination is what relief should be granted to Chandra Kishore. The union at the hearing has pressed that he should be reinstated in service with full back wages from 22nd August, 1959.

21. Normally, when it is held that the termination of the services of a workman was not justified the proper order to make would be to reinstate the workman in service. The company has opposed reinstatement in service of Chandra Kishore stating among other grounds that it would disturb industrial peace. I however,

find from the Conciliation Officer's failure report that at one stage of the proceedings the company was prepared to reinstate Chand Kishore in service as coal cutting machine driver with effect from 1st May, 1960 without any back wages but the union had insisted on payment of at least half the back wages to him from 22nd August, 1959 to which the management was not agreeable and therefore it withdrew its offer to re-employ Chand Kishore. Considering all the facts and circumstances of the case I think the proper order to make would be to order Chand Kishore's reinstatement in service as coal cutting machine driver and to direct the company to pay him half his back wages (basic wage as of category VII, dearness allowance and underground allowance) for the period from 1st May, 1960 till the date of his reinstatement—Chand Kishore to be reinstated in service within one month of the date this award becomes enforceable. I would however in the peculiar circumstances of the case like to give an option to the company and the option is that if it pays full wages (basic wage as of category VII, dearness allowance and underground allowance) for the period from 1st May, 1960 till the date the award herein becomes enforceable i.e. one month from the date of its publication in the official gazette then it need not reinstate Chand Kishore in service.

22. Since the union has succeeded and considering the protracted hearing of the dispute I award Rs. 200/- as costs to the union to be paid within a month of this award becoming enforceable.

(Sd.) SALIM M. MERCHANT.
Presiding Officer.

[No. 2/149/60-LRII.]

S.O. 2369.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the matter of an application under Section 33A of the said Act from Shri Garib Chamar and Shri Chatur Ghatual workers employed at Baragolai Colliery.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, DHANBAD.

APPLICATION No. 11 of 1961

IN

REFERENCE No. 44 of 1960.

1. Garib Chamar and
2. Chatur Ghatual, workers employed at Baragolai Colliery,
P.O. Baragolai, Upper Assam.—Complainants.

Versus

The Management in relation to Assam Railways & Trading Co., Ltd.,
P.O. Margherita, Upper Assam.—Opposite Party.

PRESENT:

Shri Salim M. Merchant, Presiding Officer.

APPEARANCES:

For the Complainants.—Shri Gulab Gupta, Office Indian National Mine Workers' Federation for the Complainants with Shri Garib Chamar.
Complainant Chatur Ghatual—absent.

For the Opposite Party.—Shri B. R. Das, B.A. LL.B., Advocate instructed by M/s. Steel & Hadow Solicitors, with Shri A. Ghosh, Chief Personnel Officer, Assam Railways and Trading Co. Ltd.

INDUSTRY: Coal Mining.

STATE: Assam.

Dated, Bombay, the 30th June 1962.

AWARD

This is a complaint under Section 33A of the Industrial Disputes Act, 1947 (Act XIV of 1947) by two workmen viz., (1) Garib Chamar and (2) Chatur Ghatual, of the Baragolai Colliery, who, it is admitted were workmen concerned in the Industrial Dispute—being Reference No. 44 of 1960—which was referred for adjudication to this Tribunal. This complaint which is dated 31st August 1961, and was filed on 8th September 1961, during the pendency of that dispute before this Tribunal, is directed against the complainants' alleged dismissal from service

on 14th July 1961, by their names being struck off the roll. The complaint is that as they were dismissed from service during the pendency of Reference No. 44 of 1960 without the approval of the Tribunal having been obtained as required by Section 33 of the Industrial Disputes Act to the management's action in dismissing the complainants, their dismissal was in contravention of section 33 of the Act and was therefore illegal. It is not denied by the management that it did not file an application under section 33 of the Act for the approval of its action, but its stand is that there was no contravention of the provisions of section 33 by it, inasmuch as both these complainants had suddenly stopped attending to their work and had disappeared for a number of weeks at a stretch and this led the management to believe that they had left work of their own accord and had absconded and the company could not trace their whereabouts in spite of every effort. According to the company, on the basis of their conduct the complainants were deemed to have resigned from the company's employment and consequently the question of dismissing them from service or of holding an enquiry did not arise. The company has, therefore, contended that such non-employment does not constitute contravention of section 33 of the Act and a complaint under section 33A is not maintainable.

The first issue, therefore, is whether there has been a contravention of section 33 of the Act, because it is well settled law that a contravention of section 33 can only give rise to a complaint under section 33A. In my opinion, there has been a contravention of section 33 of the Act, by the management because, the act of the management in striking off the name of both these complainants from its rolls on 8th July 1961, was the overt act which constituted their dismissal from the company's service and as these two complainants were admittedly workmen concerned in the industrial dispute—Reference No. 44 of 1960—which was on that date pending before the Tribunal, it was obligatory for the company to have obtained the approval of the Tribunal for that action, by an application under section 33(2)(b) of the Act, and its failure to file such an application has amounted to a contravention of section 33 of the Act. As there has been a contravention of section 33 of the Act, this complaint is maintainable.

It is also well settled law that even when a contravention of section 33 of the Act is established, the Tribunal has to adjudicate on the merits of the complaint. I, therefore, proceed to deal with the question whether the complaints are justified on the merits i.e. whether the Union's claim for re-instatement in service of both these complainants with full back wages and all other benefits from 8th July 1961, is justified.

I shall first consider the case of the first complainant Garib Chamar, who was present at the hearing of this complaint at Dibrugarh on 25th and 26th June 1962. I may say that the other complainant Chatur Ghatual, was not present at the hearing, but appeared on 27th June to show that he was not absconding.

The case for Garib Chamar as also for Chatur Ghatual, as stated in Paras 3 and 4 of this complaint dated 31st August 1961, is that both were required to go home for an urgent work and as the time at their disposal was very short, they could not take leave, that they returned on the 10th day and were not allowed to join. They were even denied opportunity to explain their conduct. They were not charge sheeted by the Opposite Party and no enquiry was held against them. They were not informed about their dismissal even. As such, the action of the management was illegal, un-reasonable and against all principles of law and natural justice and standing orders. That the complainants were permanent workmen with 10 years' service with the opposite party and that the termination of their services by striking off their names from the rolls on 8th July 1961 was not justified.

The Union at the hearing led the evidence of Garib Chamar (Ex. E.W.-1), in which he stated he had at the relevant time absented himself from work for only about a week. His story was that he could not apply to the management for leave because his brother-in-law one Ram Avtar, also a workman in the Colliery, suddenly took ill and he had to remove him to the Company's Central hospital and that after Ram Avtar's death he had to attend to his burial and look after his children. His story is that he had reported himself for work after seven days when he was told by the Hazri Babu, that his name had been struck off the roll. As against this the Company's story, which is supported by the evidence of its two witnesses (1) L. K. Gopal Krishnan, Superintendent of the Collieries of the Company (Ex. E.W.-1) and (2) Pritam Singh Thapa, Senior Welfare Officer (E.W.-2), is that Garib Chamar had, without permission or any application for leave, absented himself from work after the week ending 17th June 1961 till 8th July 1961, when his name was removed from the Muster Roll. With regard to Garib Chamar's story that he had absented himself from work because of his

brother-in-law. Ram Avtar's death, it was ascertained and not disputed that Ram Avtar had died some time in December 1960 and that Garib Chamar had collected his (Ram Avtar's) Provident Fund dues of Rs. 610.97 on 3rd May 1961, as per receipt of Garib Chamar (Ex. E-5). On the oral and documentary evidence on record. I am of the opinion that Garib Chamar's story that he had absented himself for leave for only about a week to attend on his sick brother-in-law, Ram Avtar, and therefore he had no time to apply for leave to the Company has been conclusively proved to be a completely false story. From the documents on record it is quite clearly established that Ram Avtar had died in December 1960 and that Garib Chamar had collected his provident fund dues on 3rd May 1961, long before Garib Chamar had absented himself. I have not the least doubt that Garib Chamar has, without hesitation, given false evidence.

The Company's case further is that Garib Chamar since filing this complaint had tendered his resignation from the Company and had collected his Provident Fund dues. The Company has in this connection, relied upon a writing dated 21st February 1962, which bears Garib Chamar's thumb impression, which Garib Chamar admitted (Ex. W.1). This is a writing addressed to this Tribunal in which Garib Chamar stated that he had resigned from the Company's service. Now, Garib Chamar, in his evidence has stated that his thumb impression was taken from him under mis-representation as he was told that unless he signed that writing he would not be paid Ram Avtar's dues by way of earned Commission, amounting to Rs. 175; that he urgently needed this amount as Ram Avtar's children and his own children were starving, he therefore put his thumb impression on the writing (Ex. W.1). He has denied that he has resigned from the Company. As against this story of Garib Chamar, Shri L. K. Gopal Krishnan (E.W. 1) the present superintendent of the Collieries, in his evidence has stated that after 8th July 1961, Garib Chamar had met him and when questioned whether he was really interested in his job, he had stated that if he were given all his dues and his Provident Fund amount, he would prefer to resign from the Company's services and work on his lands. He further stated that Garib Chamar's service record (Ex. E-2) showed that he had been absent during the year ending 8th July 1961 for in all 143 days, and that his attendance during 1960 was also not regular. In his opinion, the endorsement that Garib Chamar's and Chatur Ghatua's names had been struck off the rolls was made by a mistake. The Company's second witness, Pritam Singh Thapa, the Senior Welfare Officer of the Company (Ex. E.W-2) stated that he met Garib Chamar, who had been directed to him by the then Manager of the Colliery, Shri Gopal Krishnan in July 1961. He told the witness that he had told Gopal Krishnan that he was not interested in his job and wanted to withdraw this complaint, if he was paid his provident fund dues. He stated that the Provident Fund amount is paid to an employee when he leaves the service of the Company and makes an application in the prescribed form and he stated that Garib Chamar had made such an application, which was now forwarded to the Coal Mines Provident Fund Commission's office at Dhanbad. He produced a duplicate copy of the receipt which Garib Chamar had passed on payment to him of the Provident Fund amount of Rs. 628.98 n.P. (Ex. E-4), which bears the company's rubber stamp of the payment of this amount to Garib Chamar on 13th February 1962. This witness further stated that about 10 days thereafter Garib Chamar, had again seen him and showed witness this Tribunal's notice dated 14th February 1962, fixing this application for hearing at Calcutta on 28th February 1962. The witness translated that notice for him and then asked him how he was prosecuting this application, after he had resigned from company's service. Thereupon, Garib Chamar stated that the Union was prosecuting his claim. Garib Chamar further stated that he was afraid the Tribunal might take some action against him. The witness then drew up the writing Ex. E-1. Garib Chamar then took away the original to be sent to the Tribunal and left the copy, which is Ex. E-1 with the witness. I find from a scrutiny of this case file that the original writing was in fact forwarded to the Tribunal. It was received by the office of this Tribunal at Dhanbad on 26th February 1962 and was submitted for orders to me at Bombay by the Dhanbad office on 1st March 1962 and I had on 5th March 1962, made an endorsement thereon that this application should be fixed for hearing along with the other Assam group of applications. This witness was subjected to a lengthy cross-examination by Shri Gulab Gupta representing the workmen. The witness explained that the writing Ex. E-1 was in the hand-writing of one of the clerks of the Colliery and that the witness had only helped to draw it up. This witness when questioned about the endorsement that Garib Chamar and Chatur Ghatua's names had been struck off stated that in his opinion that entry was in order.

On the oral and documentary evidence on record, I am more than satisfied that Garib Chamar, after filing this complaint voluntarily resigned from service as stated in Ex. E-1 and has collected his Provident Fund dues. I accept the

evidence of the company's Superintendent of Collieries (Ex. E.W. 1) and of its Senior Welfare Officer (E.W. 2) on the point of Garib Chamar's resignation from service, and am further of the opinion that the writing Ex. E-1 was voluntarily given by Garib Chamar and his story that he was coerced into giving it is absolutely false, and I must express my surprise at such an obviously false allegation having been so vehemently supported on his behalf at the hearing.

I am satisfied on the evidence on record that Shri Garib Chamar had absented himself from service from 17th June 1961 to 8th July 1961 without permission and or application and that the reasons stated by him for his absence are entirely false. Though there has been a breach of the Company's standing order No. 10(c) inasmuch as he was not served with a charge-sheet and his explanation was not asked for his absence, I am satisfied that thereafter he has voluntarily resigned from the Company and has collected his Provident Fund.

In the result, I hold in the case of Garib Chamar that having resigned from the Company after filing this complaint, this complaint is no longer maintainable, and must, therefore, be dismissed.

Now, with regard to the second workman, Shri Chatur Ghatual, he did not appear at the hearing at Dibrugarh on 25th and 26th June. The statement in the complaint that he had absented himself also for 10 days and had returned to work on the tenth day when he was not allowed to join duty, has been clearly proved to be false from his service record (Ex. E-3), which shows that he was absent on that occasion from 3rd June 1961 to 8th July 1961 (35 days) and not for 10 days as stated in the complaint. Beyond stating that he had gone to his native place for an urgent piece of work no other reasons were stated at the hearing for his absence. The Company has contended that because he had absented himself for such a long period and had not appeared and asked for work, it had presumed that he had voluntarily left service and therefore was justified in removing his name from the Company's muster roll. According to the Company's learned Advocate, Shri B. R. Das, the relevant standing order of the Company was standing order 9(a) which provides that for terminating employment whether by the Company or the employee, a week's written notice was necessary in the case of workmen other than monthly rated. Shri Das has argued that the Company had not been insisting on written notices from its workmen when they left its services and he has argued that after Chatur Ghatual had remained absent for 35 days the Company felt justified in thinking he had left its services—according to Shri Das resigned from service—and therefore it was justified in removing his name from the Company's rolls. I cannot accept this contention. It is quite clear that under the company's certified standing orders a workman cannot be dismissed unless he is informed in writing of the alleged misconduct and is given an opportunity to explain the circumstances alleged against him and the approval of the Collieries Superintendent is taken. The relevant standing order is standing order 10(e) which is as follows :—

10(e) No order of dismissal shall be made unless employee concerned is informed in writing of the alleged misconduct and is given the opportunity to explain the circumstances alleged against him. The approval of the Colliery Superintendent is required in every case of dismissal.

Now under standing order 10(c)(4) habitual late attendance and habitual absence without leave or without sufficient cause for more than 10 days would amount to misconduct.

It is clear from the facts stated above that Chatur Ghatual should have been charged with misconduct under this standing order, in having remained absent from 3rd June 1961 and under standing order 10(e) which I have extracted above it was necessary for the Company to have informed him in writing of this misconduct and to have been given him an opportunity to explain the circumstances alleged against him and the approval of the Colliery Superintendent should have been taken to his dismissal. It is admitted that the Company did not inform Chatur Ghatual of his misconduct nor did it give him an opportunity to explain his absence, as it is admitted that no enquiry was held. The company's plea throughout has been that Chatur Ghatual was not to be found at the Colliery and therefore, it was not possible to serve any notice on him. But it was admitted that he was living in the company's quarters at the colliery with his mother, who is an employee of the same colliery. I am, therefore not satisfied that the company's plea has any force. In any case, the company could have addressed a notice to him by post at his native place, as also at the colliery. I am, therefore, satisfied that in removing Chatur Ghatual's name from its muster roll from 8th July 1961,

which amounted to dismissing him from service, the Company had acted in violation of its standing order 10(e). His dismissal was also against the rules of natural justice, as no opportunity was given to him to explain his absence. I, therefore, hold that the dismissal of Chatur Ghatal from service with effect from 8th June 1961 was not legal or proper and the complaint must succeed.

The next question to consider is what relief he should be granted. The Union has claimed his re-instatement in service with full back wages. I am not at all impressed by this claim for full back wages. I am satisfied that the statement in the complaint that he had absented himself for only 10 days is false and that the company's statement about his having been absent from 3rd June 1961 to 8th July 1961, when his name was struck off, is correct. Considering, however, that he has put in about 9 years' service with this company, and I am satisfied by his appearance before the Tribunal at Dibrugarh on 27th June 1962, that he is anxious to serve in the Company and that this is not a case of an employee having absconded and not desiring to re-join service, I think, the only fair order to make should be that he should be re-instated in service in his former post if he reports himself for duty within 15 days of the date this award becomes enforceable. He shall not be paid anything from the date of his absence from 3rd June 1961 till he reports himself, which period will, however, be treated as one on leave without pay. The only benefit he will get will be of continuity of service.

I, therefore, award accordingly.

No order as to costs.

(Sd.) SALIM M. MERCHANT,
Presiding Officer,
Central Government Industrial Tribunal Dhanbad.

[No. 11/2/62-LRII.]

ORDERS

New Delhi, the 20th July 1962

S.O. 2370.—Whereas, the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Nowrozabad Colliery of Messrs Associated Cement Companies Limited and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

(1) Is the demand for payment of overtime wages for the work performed by Shri J. S. Pathak, Oil Issuer, from January 1957 to April 1961, justified. If so, to what relief he is entitled.

(2) Whether—

(i) Shri Sitaram, Labour Supervisor,
(ii) Servashri W. K. Sheikhdar, Kesab Prasad, R. S. Agarwal or any other member of the Time office staff; and

(iii) the office peons,

are entitled to get any overtime wages for the period commencing from the 21st August, 1960? If so, what amount are they entitled to get.

[No. 1/1/62-LRII.]

New Delhi, the 21st July 1962

S.O. 2371.—Whereas, the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Nowrozabad Colliery and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Bombay, constituted under section 7A of the said Act.

SCHEDULE

Having regard to the nature of the duties performed by the loco drivers of Nowrozabad Colliery, whether they should be placed in category VII, and if so, from what date after the 3rd November, 1961.

[No. 1/1/62-LRII.]

New Delhi, the 23rd July 1962

S.O. 2372.—Whereas, the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Bankola Colliery, P.O. Ukhra, District Burdwan (West Bengal) and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Calcutta, constituted under section 7A of the said Act.

SCHEDULE

Whether the dismissal of Sarvashri Fateh Sheikh, Bachan Sheikh, Sarju Gope, Shew Pujan Ahir, Julphkar Sheikh, Markendi Sheikh, Ramkishan Ahir and Parsuram Dusadh workmen of Bankola Colliery, P.O. Ukhra, District Burdwan was justified? And if not, to what relief are they entitled?

[No. 2/66/62-LRII.]

A. L. HANNA, Under Secy.

